रजिस्ट्री सं. डी.एल. (एन) 04/0007/2003—05 REGD. NO. D. L. (N) 04/0007/2003—05

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सं. 12] नई दिल्ली, मार्च 24—मार्च 30, 2024, शनिवार/ चैत्र 4 —चैत्र 10, 1946
No. 12] NEW DELHI, MARCH 24— MARCH 30, 2024, SATURDAY/CHAITRA 4– CHAITRA 10, 1946

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

संस्कृति मंत्रालय

नई दिल्ली, 5 मार्च, 2024

का.आ. 579.—केंद्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम 4 के अनुसरण में संस्कृति मंत्रालय के अंतर्गत आने वाले निम्नलिखित कार्यालयों जिनमें 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :-

1. रायपुर मंडल कार्यालय, भारतीय पुरातत्व सर्वेक्षण, रायपुर
2. उत्तर क्षेत्र सांस्कृतिक केन्द्र, पटियाला, पंजाब

यह अधिसूचना राजपत्र में प्रकाशन की तारीख से प्रवृत्त होगी।

[फा. सं. ई. 13016/1/2019- हिंदी]

गुरमीत सिंह चावला, संयुक्त सचिव

MINISTRY OF CULTURE

New Delhi, the 5th March, 2024

S.O. 579.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices under Ministry of Culture wherein more than 80% officers/staff have acquired working knowledge of Hindi :-

1. Raipur Circle Office, Archaeological Survey of India, Raipur
2. North Zone Cultural Centre, Patiala, Punjab

This notification shall come into force from the date of publication in the Official Gazette.

[F. No. E.13016/1/2019-Hindi]

GURMEET SINGH CHAWLA, Jt. Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 5 मार्च, 2024

का.आ. 580.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **इंडियन ऑयल अडानी वेंचर्स लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री महेन्द्रभाई एस. राजपूत** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद, पंचाट (रिफरेन्स न.- 31/2013)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 01.03.2024 को प्राप्त हुआ था।

[सं. एल-30012/77/2012-आईआर(एम)]

दिलीप कुमार, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 5th March, 2024

S.O. 580.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 31/2013)** of the **Central Government Industrial Tribunal cum Labour Court, Ahmedabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Indian Oil Adani Ventures Limited** and **Shri Mahendrabhai S. Rajput** which was received along with soft copy of the award by the Central Government on 01.03.2024.

[No. L-30012/77/2012-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present….

Sunil Kumar Singh-I,

Presiding Officer, CGIT cum Labour Court,

Ahmedabad,

Dated 5th February, 2024

Reference: (CGITA) No- 31/2013

Indian Oil Adani Ventures Limited,

A-104, 1st Floor, Godrej two,

Firoznagar, Eastern Express Highway,

Vikhroli, East,

Mumbai-400079. ……First Parties/Employer

V

1. Shri Mahendrabhai S. Rajput (Deceased)

1/1. Smt. Geetaben Mahendrabhai Rajput (wife),

1/2. Shri Dhaval Kumar Mahendrabhai Rajput(Son) and

1/3. Rubyben Mahendrabhai Rajput (Daughter)

Vitthal Niwas,

Bindu Sarovar Road, Siddhapur,

District-Patan , Gujarat. ..…….Second Party/Workman

Adv. for the First Party : Shri K. V. Gadhia & Shri M. K. Patel

Adv. for the Second Party : Smt. Kashmiraben Chaudhary

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/77/2012–IR (M) dated 07.02.2013 referred the dispute for adjudication to this CGIT-cum-Labour Court at Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of IOT Infrastructure & Energy Services Ltd., Palanpur in terminating the services of Shri Rajput Mahendrabhai S. is legal and justified? What relief the applicant Shri Rajput Mahendrabhai S. is entitled to?"

1. The case was taken up today. The substitution application Ex. 8 has been moved on behalf of the legal heirs 1. Smt. Geetaben Mahendrabhai Rajput (wife), 2. Shri Dhaval Kumar Mahendrabhai Rajput(Son) and 3. Rubeyben Mahendrabhai Rajput (Daughter) to substitute them as legal heirs of the deceased workman Shri Rajput Mahendrabhai S., who is said to have died on 27/08/2020. Employer has endorsed as "No Objection".

2. Heard. Perused the copies of Death Certificate, Aadhar Card, Voter I.D. Card, etc. Smt. Kashmiraben Chaudhary, Adv. has submitted the Vakalatnama for the substituted LR's today and requested to condone the delay. Not opposed by the employer.

3. Keeping the nature of the proceedings in view substitution application Ex. 8 is allowed. The abatement, if any, stands set side. Let the applicants LR's be substituted for the deceased. Let necessary amendment to this effect be carried out in the statement of claim.

4. Ex. 9 has been moved on behalf of the employer informing that the name of the employer has been changed from "Indian Oil Tanking Infrastructure" to "Indian Oil Adani Ventures Limited".

5. Heard. Ld. Counsel for the substituted workman is directed to take necessary steps accordingly.

6. Ld. Counsel for the workman also moved an application Ex.10 to permit her to amend Statement of claim in respect of change of nomenclature of the employer as informed by the employer's Ld. Counsel.

7. Heard. Ex.10 is allowed. Let necessary amendment/ consequential amendment be made in statement of claim in respect of said nomenclature of the employer. Meantime employer is also directed to carry out consequential amendment in written statement/reply, where ever applicable.

8. Ld. Counsel for both the parties have jointly requested that all the legal heirs of the deceased are present in the court today and parties have settled their dispute and submitted the compromise Ex.11 and requested to disposed of the same today itself.

9. Heard. Prayer allowed. Compromise Ex.11 has been filed to the effect that the legal heirs of the deceased have agreed to receive Rs.100,000/- vide cheque No.280638 dated 31.01.2024 as full and final settlement. Legal heirs have agreed to handover the cheque to Smt. Geetaben Mahendrabhai Rajput (wife) of deceased workman. The aforesaid cheque is said to have been already handed over to Smt. Geetaben Mahendrabhai Rajput today. Compromise Ex.11 is allowed.

10. Thus the reference is disposed of in the light of the settlement Ex.11. The settlement Ex.11 shall remain part of the award. The award is passed accordingly.

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication U/s 17(1) of Industrial Disputes Act.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 1 मार्च, 2024

का.आ. 581.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री एन. बाला शौरेअह** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद, पंचाट (रिफरेन्स न.-116/2006)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 01.03.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024-आईआर(एम)-29]

दिलीप कुमार, अवर सचिव

New Delhi, the 1st March, 2024

S.O. 581.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 116/2006)** of the **Central Government Industrial Tribunal cum Labour Court, Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Bharat Petroleum Corporation Limited** and **Shri N. Bala Shoureah** which was received along with soft copy of the award by the Central Government on 01.03.2024.

[No. Z-16025/04/2024-IR(M)-29]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: -**Sri Irfan Qamar**

Presiding Officer

Dated the 23rd day of February, 2024

INDUSTRIAL DISPUTE L.C.No. 116/2006

Between:

Sri N. Bala Showraiah,

S/o N. Innaiah,

R/o H.No.6-5-84, Hamalwada,

Nizamabad – 503 002. .....Petitioner

AND

The Management of Bharat Petroleum

Corporation Ltd., 1, Ramanatham Gardens,

11th Main Road, Anna Nagar,

Chennai – 600 040. ….Respondent

Appearances:

For the Petitioner : M/s. B. H. Ravi & G. Ramudu, Advocates

For the Respondent: M/s. K. Srinivasa Murthy & V. Uma Devi, Advocates

AWARD

Sri N. Bala Showraiah, who worked as Work Operator (Field) (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents seeking for declaring the proceeding dated 5.11.2003 issued by Respondent as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential

benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The averments made in the petition in brief are as follows**:

It is submitted that the petitioner was an ex-military man having joined the Defence Services as Sepoy, in Madras Regiment in year 1972, and retired as Naik on 31.7.1987. It is submitted that the petitioner joined the services of the Respondent corporation at Nizamabad Depot as a general workman cum helper on 7.8.1989 and his duties were (i) to go as helper in the Company Lorry for delivery of the Petroleum and other products to different out-lets of the corporation, (i) to load and unload the petrol, diesel and kerosene tankers, under the supervision and as per the direction of the supervisor who was present at the Gantry works spot and also to attend the sundry work as may be assigned by superiors from time to time. It is further submitted that the post of the petitioner is the lowest in the hierarchy of employees of the Respondent and the petitioner is only a semiliterate and a non technical person and he was drawing a salary as a general workman and subsequently he was promoted as Work Operator (Field) and he used to draw a salary of Rs.11, 940/-. It is further submitted that the petitioner has neither got the authority nor has any discretion to chose the nature or the order of the way of performing duties and he has no alternative, but to discharge his duties to the sole satisfaction of the superiors his being the lowest in the rank of employment of the Respondent corporation at Nizamabad. It is further submitted that the petitioner was a law binding honest and sincere citizen and he has always worked to the utmost satisfaction of his superiors and worked with unblemished conduct and without any complaint either by his colleagues or by his superiors. While So, the petitioner was shocked to have been served with the Charge Sheet dated 11.6.1999 containing false and frivolous allegations made by the Respondent management alleging that the petitioner has committed misconduct enumerated at clause 29.1.5. 29.1.6. 29.1.14 and 29.1.24 of the Standing orders of the company and the petitioner was kept under suspension pending Enquiry. It is further submitted that the petitioner had obediently submitted his explanation to the Charges levelled against him to the charge sheet served on him by the Respondent management. The Respondent management without considering the explanation on merits had methodically ordered the petitioner to face Enquiry into the charges before the Enquiry officer appointed by the company for the said purpose. It is further submitted that the Enquiry officer without following any rules of natural justice had conducted the Enquiry in a most biased manner and even without affording the petitioner any reasonable opportunity to substantiate his case, concluded the Enquiry and submitted his report to the Respondent holding guilty of the charges levelled against the petitioner. The petitioner further submits that the report of the Enquiry officer is unsustainable in law as the findings arrived at by the Enquiry officer are perverse and not based on the evidence available on record and the conclusions are based on misconception of both law and facts and the conclusions arrived at by the Enquiry officer are against the principles of law and no authority would come to such arbitrary conclusions as even to the knowledge and service conditions of the Respondent the petitioner had no choice of discharging his duties so as to give either benefit or detriment to the interest of Corporation as the petitioner and the other workmen are under continuous supervision and surveillance of the supervisory staff and other staff/workmen of the Respondent at Nizamabad and had conveniently forgotten the impossibility of such conduct as averred in the charge sheet. It is further submitted that the proceedings of the Enquiry were recorded in English inspite of the protest by the workmen on the ground that the Enquiry officer do not know Telugu and even the workmen representative do not know Telugu and the delinquent employees including the workman do not know English. It is further submitted that there was a strange situation prevalent all through the proceedings of the Enquiry that all the witnesses have deposed in Telugu and neither the Enquiry officer nor the workmen representative had the knowledge to understand what was deposed by the witnesses and even strangely though the workman knew Telugu since doesn't know English, they were unable to understand what was reduced into writing by the Enquiry officer and the Enquiry officer had resorted himself much on the translation of the person(Driver) chosen by him, who has no knowledge to understand Telugu or the capacity to translate the same into English and the same person was foisted on the delinquent in spite of objection raised by them. It is further submitted that the Respondent management without considering the reply given by the petitioner to the show cause notice issued by the management and without applying its mind to the facts, circumstances and the grounds of objections raised by him in relation to the findings of the Enquiry officer, had passed a mechanical order terminating Petitioner's services by order dated 5.11.2003 by the General Manager (retail), South of the Respondent Corporation. It is further submitted that the management had not even considered the contribution rendered by the petitioner in the nature of his hard work which has also played its own role in getting I.S.O Certificate for the Nizamabad Depot in the midst of stiff competition from the competitors of the Respondent corporation, which is considered to be a hall mark for every industry. It is further submitted that even assuming, but without admitting that even if the charges levelled against the petitioner are deemed to have been proved, the punishment given to the petitioner is shockingly disproportionate and does not Commensurate with the proven misconduct, hence liable to be set- aside on this ground.It is further submitted the petitioner is out of employment since the date of termination and inspite of best efforts, he could not get any employment and is presently continues to be without any employment and consequently exposed to both financial and stress. It is further submitted that the termination order passed by the Respondent is unsustainable in law and amounts victimization and unfair labour practice and the petitioner is made a scape goat for no fault of him and unnecessarily made to suffer the hardship. The termination order is passed in utter violation of all cannons of law hence liable to be set-aside. It is therefore prayed to set - aside the termination order dated 5.11.2003 terminating the services of the petitioner from the

services of the Respondent and direct the Respondent to reinstate the petitioner into the service, with continuity of service, attendant benefits and back wages in the interest of justice.

3. **The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows**:

The petitioner was employed in the Respondent's depot at Nizamabad, Andhra Pradesh. The depot was functioning with one Senior Operations Officer as Depot Incharge assisted by another Senior Operations Officer, a heavy vehicle driver, a tank lorry helper, two general workmen, four security guards and two clerical staff. The depot used to receive tank loads of MS (petrol) and HSD (Diesel) from Vizag installation on stock transfer and SKO (Kerosene) on stock transfer from Warrangal Depot through tank lorry load by road. During the relevant period, the depot had one Company Owned tank lorry and there were 13 other private contract vehicle operators. The private contract vehicle operators (PCVOs) were based in Nizamabad. PCVO lorries based at Warangal and Vizag also used to bring products to the depot. There was also a hospitality arrangement with HPC Limited by which the Respondent used to keep the stock of HPCL with the depot and periodically release the product as per the requisition made by HPCL. At the time of receiving the products in tank lorries, a dip measurement has to be taken under the direct supervision of the Depot Incharge/ Sr. Operations Officer to ensure that after giving due allowance to transit loss, the quantity covered by the document was duly received. The depot incharge is also expected to ensure that the products received were as per the specifications. When the tank lorries carrying the goods report at the depot for delivery, based on the time of arrival, the tank lorries should be permitted to enter the depot for delivery. As the tank lorries would be interested in making as many number of trips in a day as possible, there is always a scramble among the tank lorries who report at the depot in getting the clearance for delivery. In order to observe timings, there is a system by which on arrival the tank lorry, the Depot should make an entry in the Register kept at the Security at the Gate and the vehicles should be called for as per the entry in Register on 'first in - first out' basis. This was to ensure that no tank lorry carrying products which reports at the depot can gain precedence over the lorries which have arrived earlier. However, the G Gate Entry Register to register the reporting time of the tank lorry for unloading was not properly maintained. It is not uncommon for the drivers to prevail on the operators in the Depot not to report the excess loss as otherwise the loss by way of shortage will have to be borne by the lorry operator. Sometime in 1998, it came to the knowledge of the Respondent that the operational functioning of depot was not upto the expected level and there were also irregularities. An operation audit team consisting of three members was constituted and the team visited the depot on 27.08.98 and 28.08.98. The audit committee noticed certain serious aberrations in the functioning of the depot. The audit team submitted its report detailing the several lapses in the day to-day functioning of the depot. On receipt of the Audit Report, an Investigation was ordered into the functioning of the said depot by a team of three Officers comprising of the Territory Manager, Vizag, the Senior Manager Loss Control, Bombay and Territory Manager, Mangalore. The investigation team made enquiries with all the employees of the depot and also interacted with some of the dealers and some private vehicle operators. They also met 6 public carrier vehicle operators. It is submitted that during investigation, many of them gave statements in writing. During course of investigation, it came to light that the Senior Operation Officer Incharge of the Depot abdicated his functions of checking the dip, density and temperature in tank lorries and allowed the two general workmen including the petitioner to carry out the same and taking advantage of the situation, the Petitioner and the other workman indulged in malpractices such as extracting money from the transport operators or their crew, with a view to make unjust enrichment and harassing them, if their demands were not conceded, that they were coercing the transport operators to pay Rs.100/- per load of MS and Rs.50/- per load of HSD for loading and unloading their tank lorries besides collecting Rs.500/- per month per tank lorry for bridging, that they were demanding and collecting money from 2 dealers i.e. M/s Sri Krishna Filling Station, Nandipet and M/s G Venkatesan, Dichpally, that on a regular basis from October 1997 to February 1998, the product received through bridging lorries were unloaded and diverted even if the density is in excess of +/-0.003 which was the permissible limit. The Respondent initiated disciplinary action against the Senior Operations Officer, Mr Ramakrishnan who was incharge of the depot and also against two workmen namely, the petitioner and one Prem Singh. On 11.6.1999, the Petitioner was issued a charge sheet that he along with the other workmen had demanded and collected from PCVOs and their crew, ranging from Rs.50/- to Rs.100/- per tank lorry for each and every handling of MS/HSD bridging tank lorries on several occasions, that he along with two other workman were threatening the PCVOs that if the demand was not met, decanting/processing the papers of the PCVO tank lorries would be deliberately held up, that he along with other workman was demanding and collecting Rs.500/- per tank lorry per month from the PCVOs/their representatives for several years, that he along with other workman had demanded and collected money from two Dealers, viz., M/s Srikrishna Filling Station, Nandipet and M/s G.Venkatesham, Dichpalhy by way of illegal gratification, that on several occasions, he along with other workman had colluded with Shri M.Ramakrishnan, Sr Operations Officers and Sri Premsingh in unloading and diverting Tank Lorries carrying MS/HSD and that he indulged in similar malpractice. On 28.6.1999 the Petitioner gave a reply denying the charges. As his explanation was not satisfactory, a common Enquiry was held against the Petitioner and the other workman, Premsingh. In the Enquiry, the Petitioner was represented by P.S. Janardhanan, an Office Bearer of the Union. During the Enquiry, 11 witnesses were examined in support of the charges and 35 exhibits as M1 to M35 were marked. On behalf of the Petitioner and the other workman, 18 witnesses were examined and exhibits as W1 to W36 were marked. In the Enquiry, the Petitioner and the other workman had fully participated and availed of

the opportunity given to them to examine their witnesses and cross examine witnesses in support of the charges. They were also furnished with the copies of the Enquiry proceedings on day today basis. The Enquiry Officers report was sent to the Petitioner vide letter dated 23.12.2002 requesting for his comments. The Petitioner vide his letter dated 06.02.2003 submitted his representation and comments on the Enquiry report. After considering his representation orders were passed on 5.11.2003 dismissing the Petitioner from service. It is submitted that the dismissal of the Petitioner is for acts of misconduct proved in the Enquiry. The said Enquiry was conducted following the principles of natural justice. The punishment of dismissal is valid in law and fully justified. It is submitted that though the Petitioner was employed only as an Operator, taking advantage of the laxity displayed by the Managerial Personnel, he along with the other workmen were taking the PCVOs for a ride and were receiving illegal gratification. In the Enquiry, abundant material had been placed to prove as to how the Petitioner and the other workmen were able to coerce the PCVOs to part with money. It is submitted that disciplinary actions against the Petitioner and the other employee were initiated based on the reports submitted by the Investigation Team. The Respondent satisfied itself that representation there was a prima facie case against the Petitioner and hence, ordered an Enquiry into the charges. It is submitted that the Enquiry proceedings were recorded in the presence of the Petitioner and the other workman as well as the Office Bearer of the Union and after satisfying themselves about the correctness of the position, all of them had subscribed to the Enquiry proceedings on all the days of the Enquiry. It is submitted that the representation of the Petitioner against the proposed punishment was duly considered and for cogent reasons, the Disciplinary Authority awarded the punishment of dismissal. It is submitted that the acts of misconduct committed by the Petitioner were over a period of nearly one year and as they were serious and grave in nature, the punishment of dismissal cannot be said to be disproportionate to the charges or harsh or excessive. It is therefore prayed to make an Award upholding the dismissal of the Petitioner.

4. The perusal of the record reveals that the domestic Enquiry conducted by the Respondent in this case is held as legal and valid vide order dated 15.9.2017.

5. The Petitioner has submitted written arguments u/s 11A of the Industrial Disputes Act, 1947, but despite the sufficient opportunity granted to the Respondent he did not adduce either oral or written argument.

6. On the basis of the rival pleadings of both the parties and arguments advanced, the following points emerge for determination:-

I. Whether the Departmental Enquiry held against the Petitioner is legal and valid?

II. Whether the action of the Respondent Management in terminating the services of the Petitioner vide order dated 5.11.2003 is justified?

III. To what relief the petitioner is entitled for?

Findings:-

7. Point No.I:- The legality and validity of the Departmental Enquiry has been held legal and valid vide order dated 15.9.2017.

Thus, Point No.I is answered accordingly.

8. **Point No.II**:- The Petitioner contended that the Enquiry Officer has conducted Enquiry without following principles of natural justice and in a biased manner and even without affording the reasonable opportunity of hearing to Petitioner substantiate his case has concluded the Enquiry and submitted his report holding the Petitioner guilty of the charges levelled against him. Further it is submitted that the report of the Enquiry Officer is unsustainable in law as the findings arrived at by the Enquiry Officer are perverse and not based on the evidence available on record and conclusions arrived at by the Enquiry Officer are against the principles of Law.

9. Per contra, the Respondent submits that during the Enquiry, employee was given due opportunity of hearing to indicate his stand and the conclusion and findings of the Enquiry Officer are based on sound reasonings as well as on the basis of material placed before him. Further, Respondent submits that the proceedings of the Enquiry were recorded in the presence of the Petitioner and the other workmen as well as the office bearer of the union and after satisfying themselves all of them had subscribed to the Enquiry proceedings on all the days of the Enquiry.

10. The perusal of the record of Enquiry proceeding goes to reveal that Petitioner had participated in the Enquiry proceeding at every stage and he was afforded fair opportunity of hearing by the Enquiry Officer and employee was provided opportunity to cross examine the witness and to adduce evidence in defence. However, the legality and validity of the Enquiry has been held legal and valid vide order dated 15.9.2017. That order remained unchalle3nged and became final. Therefore, the contention of the Petitioner in this context as discussed above is not acceptable. However, as regards contention of the Petitioner that finding arrived at by the Enquiry Officer is perverse and not based on the evidence available on record. The record of Enquiry proceeding and report would reveal that during the Enquiry proceeding the Management has examined 12 witnesses in support of charge and has also examined the documentary evidence and on the basis of evidence available on record has written his finding in Enquiry report. The plea of the Petitioner in this regard is untenable. Further, Petitioner advanced argument that

there was no ample evidence in support of charge against Petitioner and Enquiry Officer has held him guilty without sufficient evidence in the Enquiry.

It is settled law that the sufficiency of the evidence to hold guilty of charge against employee in the Departmental Enquiry is not necessary.

In the case of State of Bikaner & Jaipur Vs. Nemi Chand Nalwaya in Civil Appeal No.5861/2007 dated 1.3.2001 the Hon'ble Apex Court have held:-

"*6. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic Enquiry, nor interfere on the ground that another view is possible on the material on record. If the Enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. Courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations.*

Further, **in the case of State of Rajasthan Vs. Heem Singh, Civil Appeal No.3340/2020, dated 29.10.2001 Hon'ble Apex Court have held:-**

"To determine whether the finding in a disciplinary Enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to re-appreciate evidentiary findings in a disciplinary Enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

Further, in case of State of Haryana Vs. Rattan Singh, 1977 SCC 491, the Hon'ble Apex Court have held:-

"4. It is well settled that in a domestic Enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility." Further, it is held, "The simple point is, was there some evidence or was there no evidence not in the sense of the technical rules governing regular court proceedings but in a fair common-sense way as men of understanding and wordly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a ending is certainty available for the court to look into because it amounts to an error of law apparent on the record. "

11. In the present case the Enquiry against employee has been held fairly and properly and Enquiry Officer has recorded his finding after examining the oral and documentary evidence recorded during the Enquiry proceeding. Therefore, in view of the law laid down by the Hon'ble Supreme Court of India as discussed above, the question of adequacy of the Evidence or the reliable nature of the evidence will not be ground for interference with the finding in Departmental Enquiry. Hence, in the present matter it is not the case that findings are based on no evidence. Enquiry Officer has followed the principles of natural justice and statutory regulation and has submitted his finding on the basis of oral and documentary evidence. Therefore, in view of the law laid down as discussed above, the argument of the Petitioner that there was not sufficient evidence in the Enquiry to hold the Petitioner guilty of the charges, is untenable.

12. Further, the contention of the Petitioner that the charges against Petitioner are based on vagueness. Therefore, vague charge is not sustainable in law. It would be apposite to mention here that in the present matter charge sheet has been served upon employee and he had submitted his written reply to the charge sheet. Further, he has cross examined the Management witnesses at length. He did not raise that objection before the Enquiry Officer that there is vagueness in the charge sheet instead participated on Enquiry proceeding at each and every stage. Hence, the argument of Petitioner about vagueness of charge is mere after thought and untenable.

13. Further, argument is set up by the Petitioner that there is inconsistency and contradiction in the testimony of Management witness and they are not reliable witness. In this context, it would be pertinent to mention here that it is settled law that the principle and rules of evidence do not apply strictly to Departmental Enquiry and for the appreciation of evidence in Departmental Enquiry the rule preponderance of probability will apply. On careful examination and scrutiny of evidence in the Enquiry and the report of Enquiry Officer there is material and relevant evidence on record and it can not be said that the report of Enquiry Officer is perverse. It is settled law that appreciation of evidence in the Enquiry is the domain of the Enquiry Officer and Tribunal can not re-assess or reappreciate the evidence in the enquiry nor interfere in the finding arrived at by Enquiry Officer only on the basis of minor contradictions unless it is perverse and in breach of gross violation of Law.

In this context, Hon'ble Supreme Court of India in **State of Bikaner and Jaipur Vs. Nemichand Nalwaya (supra)**, have held that the Court will not act as Appellate Court and reassess the evidence led in the domestic enquiry nor interference on the ground that another view possible on the material on record. Thus, in view of the settled law as above, I find no force in this contention of the workman.

14. Further, Petitioner has taken the plea that in the present matter the Enquiry Officer does not belong to the Respondent office and he has conducted the Enquiry in a place far from the working place of the Respondent office, hence much prejudice was caused to the Petitioner in attending the Enquiry as it was held at Warangal and Hyderabad. The Enquiry conducted by the Respondent through outsider is not sustainable in law. Further, it is contended that the Enquiry so conducted against Petitioner is prejudicial to the interest of the workman as the Enquiry Officer is an Advocate.

15. The Enquiry proceeding would reveal that the Petitioner has participated through out the Enquiry at each and every stage, but he has not raised any objection regarding any prejudice caused to him during the Enquiry proceeding and the Enquiry proceeding has been conducted by Enquiry Officer according to settled Principle of Law and procedure. Workman has been afforded fair opportunity of hearing and he has produced his evidence in defence. However, Petitioner failed to show or explain that what kind of prejudice has been caused to him by the conduct of Enquiry Officer. The Petitioner has not pointed out towards any provision where an Advocate and outsider can not be appointed as Enquiry Officer. Thus, the plea of the Petitioner in this context is baseless and without any substance, hence, not tenable. As regards, the plea of the Petitioner that Enquiry has been conducted outside the premises of work place at Warangal and Hyderabad the Petitioner has failed to show that what kind of prejudice has been caused to him by holding the Enquiry outside the premises of work. Therefore, this argument of the Petitioner is also untenable.

16. Further, Counsel for Petitioner advanced the argument that the Respondent Management has imposed the punishment of termination from service which is shockingly disproportionate and does not commensurate with the proven misconduct and the same is liable to be set aside on this ground. Further, it is submitted that Disciplinary Authority has not considered the reply submitted to show cause notice by the Petitioner and without application of mind in a mechanical manner has passed the termination order dated 5.11.2003 of the Petitioner which is illegal and liable to be set aside.

The perusal of the Enquiry proceeding would reveal that following charges were framed and has been proved against the Petitioner in the enquiry:-

"2. It has been reported against you that as an experienced workman of the corporation, you have been found to have committed the following serious acts of Indiscipline deliberately and willfully to secure undue, unwarranted, unjustified and illegal personal gratification.

a) Complaints have been received against you that you have demanded and received illegal gratification from PCVOs and their crew, ranging from Rs.50/- to Rs.100/- per tank lorry for each and every handling of MS/HSD bridging tank lorries on several occasions. Such demand for money and receipt of the money was through threatening as well as carrying out threats to the PCVO crew that if such payments were delayed or not made to you by them, decanting/processing the papers of the PCVO tank lorries would be deliberately held up by you so as to harass the PCVOs.

b) Complaints have also been received against you that you were demanding and collecting Rs.500/- (Rupees five hundred) per tank lorry per month from the PCVOs/ their representatives, for several years, by way of illegal gratification.

c) Complaints have also been received from two of our dealers viz., M/s Srikrishna Filling Station, Nandipet and M/s. G. Venkatesham, Dichpally, that you were demanding and collecting money from the Dealers/their representatives by way of illegal gratification and that you were harassing the dealers/representatives when your demands were not met with.

d) Copies of the above complaints given by the PCVOs and Dealers are attached collectively as Annexure-I.

e) It has also been reported in the recent Operations Audits carried out in Nizamabad Depot that on several occasions you had colluded with Shri M. Ramakrishnan, Sr Ops Officer and Sri Premsingh, General Operator (Field) in unloading/diverting TLs carrying off-spec products i.e., tank lorries carrying MS/HSD with variation in density beyond the permissible limits, without caring for and with scant regard to quality control norms and procedures, which, as an Operator with long standing experience in the Corporation you ought to have refused. It is evident that these deliberate acts were committed by you with the intention of securing illegal gratification, in consideration of the money you had demanded and collected from the PCVOs/their representatives on all such and other occasions.---

4. You are charged with the following acts of misconduct under the following clauses of the Standing Orders applicable to you.

(i) S.o.29.1.5: *Commision of any act, subversive of discipline or good behavior on the Corporation's premises, or in the course of duty, or outside the Corporation's premises, if it is proved to have directly affected the discipline or administration of the company.*

(ii) S.O.29.1.6: *Use of abusive language, threatening, intimidating or coercing within the premises of the establishment against any other workman or person authorized to work in the premises of the establishment an assault of threat of assault within the premises of the establishment on any workman or person authorized to work on the premises of the establishment and any such act outside the premises of the establishment, if it has a bearing on the discipline of the establishment.*

(iii)S.O.29.1.14: *Theft, fraud, or dishonesty in connection with the corporation's business or property for theft of another workman's property within the premises of the establishment.*

(iv)S.0.29.1.24: *Damaging or losing corporation's property or endangering the life of another person through willful neglect or default."*

17. One can not possibly argue that the above stated charges are simply in nature, in other words charges against the Petitioner were of serious nature and pertains to the doubtful and taunted integrity of the Petitioner. No employer would have allowed or tolerated such employee while on duty. The employer had therefore, has every right to initiate the domestic Enquiry against such employee for his such misconduct. Therefore, the order of dismissal from service of Petitioner can not be faulted with nor it can not be said to be in any way disproportionate to the charges. In other words, the punishment of dismissal from service was proportionate to the gravity of the charges against Petitioner and hence deserves to be upheld. As regards interference by the Court in the order of termination of the Petitioner passed by the Disciplinary Authority, it is settled principle of law that the Tribunal in exercise of the power judicial review would not normally interfere with the quantum of punishment.

In this context, decisions of Hon'ble Supreme Court of India are relevant being referred below:-

In the case of B.C. Chaturvedi Vs. Union of India & Ors.3, again a Three Judge Bench of this Court has held:-

"that power of judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eyes of the court. The Court/Tribunal in its power of judicial review does not act as an appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. It was held as under:

"12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made.

Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is 3 (1995) 6 SCC 749 entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case."

In State of U.P. v. Sheo Shanker Lal Srivastava and Others [(2006) 3 SCC 276], Hon'ble Apex Court have held:-

"the Industrial Courts or the High Courts would not normally interfere with the quantum of punishment imposed upon by the Respondent stating: "It is now well-settled that principles of law that the High Court or the Tribunal in exercise of its power of judicial review would not normally interfere with the quantum of punishment. Doctrine of proportionality can be invoked only under certain situations. It is now well-settled that the High Court shall be very slow in interfering with the quantum of punishment unless it is found to be shocking to one's conscience."

Further, in the case of **Maharashtra State Road Transport Corporation Vs. Dilip Uttam Jayabhay, the 2022 LLR page 126, wherein the Hon'ble Apex Court held:**

"once the Enquiry finding is held to be fair and proper, industrial Tribunal or Labour Court lacks jurisdiction to interfere with the quantum of punishment unless the same is shockingly disproportionate to the gravity of conduct."

Further, **in the case of State of Rajasthan Vs. Heem Singh, Civil Appeal No.3340/2020, (supra) Hon'ble Apex Court have held:-**

33. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject……..That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to re-appreciate evidentiary findings in a disciplinary Enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

Therefore, in view of the fore gone discussion and law laid down by the Hon'ble Apex Court, as discussed above in the present matter, I find no cogent reason to interfere in the termination order dated 5.11.2003 from service of the Petitioner passed by Disciplinary Authority of Respondent Management. As such, the action of the Respondent in passing the punishment of dismissal on the Petitioner Sri N. Balashowraiah from service is held justified.

Thus, Point No. II is answered accordingly.

18. **Point No.III**: In view of the finding given at Points No.I &II, the workman is not entitled to any relief and the claim of workman is liable to be dismissed.

Thus, Point No.III is answered accordingly.

AWARD

In view of the findings arrived at Points I to III above, it is held that, the action of the Management of Bharat Petroleum Corporation Ltd., in terminating the services of the Petitioner Sri N. Bala Showraiah, vide order dated 5.11.2003 is legal and justified. The workman is not entitled to any relief as prayed for. The petition stands dismissed.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 23rd day of February, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 मार्च, 2024

का.आ. 582.— औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **पोस्ट मास्टर, डाकघर कोरबा (प्रधान कार्यालय), कोरबा (छ.ग.); अधीक्षक प्रधान डाकघर, तिलक नगर, बिलासपुर-(छ.ग.),** के प्रबंधतंत्र के संबद नियोजकों और **श्री दिपित राठौड़, कामगार,** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार** औद्योगिक अधिकरण एवं श्रम न्यायालय, **जबलपुर पंचाट (संदर्भ संख्या CGIT/LC/R/74/2020) को जैसा कि अनुलग्नक में दिखाया गया है**, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 18.03.2024 को प्राप्त हुआ था

[सं. जेड-40012/09/2018- आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 19th March, 2024

S.O. 582.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. CGIT/LC/R/74/2020**) of the **Central Government Industrial Tribunal cum Labour–Jabalpur,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Post Master, Post Office Korba (Head Office), Korba (Chhattisgarh); The Superintendent Head Post Office, Tilak Nagar, Bilashpur-(Chhattisgarh), and Shri Dipit Rathore, Worker,** which was received along with soft copy of the award by the Central Government on 18.03.2024.

[No. L- 40012/09/2018- IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/74/2020

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Dipit Rathore

Budhwari Bazar, Korba, Bazrang Chowk,

Korba (Chattisgarh) - 495450

Workman

Versus

The Post Master,

Post Office Korba (Head Office)

Korba, Korba (Chhattisgarh) – 495450

The Superintendent

Head Post Office, Tilak Nagar,

BILASPUR (Chhattisgarh) - 495001

Management

AWARD

(Passed on this 21Th day of February-2024.)

As per letter dated 20/12/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-40012/09/2018 (IR(DU)) dt. 20/12/2018. The dispute under reference related to:-

"Whether the action on the part of the contractor management ie the Post Master, Head Post Office. Korba und Superintendent, Head Post Office, Tilak Nagar, Bilaspur in terminating the services of Dipti Rathor Ex-Computer Operator Engaged on daily wage basis in Central Proccesing Centre of Korha Head Post Office on Unjustified ground working for a period of almost 02 years continously and not paying her terminal benefits and without complying section 25(F) of ID Act is legal and justified? 2 Whether the Claim Raised by the Retrenched workman for further re-engagement and regularisution subsequently not being considered by the post office management of Korba and Bilaspur in the decision making process is appropriate and justified? If not, what relief Dipti Rathore, the retrenched daily rated workman working in the CPC section of Korba Head Office is entitled to?"

After registering a case on the basis of the reference received, notices were issued to the parties and were duly served on them.

The case of workman is that she was a daily wager the management terminated from her service without any notification and compensation. She was also not paid wages from 2016 to 2017. She has shot her reinstatement with back wages and benefit.

Management has stated that she worked as a daily wager for which she was paid her wages; she never completed 240 days in any year. Hence her disengagement is not against Law.

In evidence, the workman did not appear after filing her statement of claim, nor did she filed any affidavit in support management fild affidavit of its witness who was not cross examined by the workman. Management witness supported his case.

At the stage of argument also, non appeared for workmen no written argument was fild and arguments from the side of management were heard.

Reference is the issue for determination in the case. Intitial burden to prove is on the workmen. In absence of any evidence the claim of workmen is held not proceed.

The reference deserves to be answer against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 21 मार्च, 2024

का.आ. 583.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स लाइफ इन्सुरेंस कॉर्पोरेशन ऑफ़ इंडिया** के प्रबंधतंत्र के संबद्ध नियोजकों और **उनके कर्मकार/यूनियन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता**, पंचाट **(रिफरेन्स न.-08/2017)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21.03.2024 को प्राप्त हुआ था।

[सं. एल-17011/5/2016- आईआर-(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 21st March, 2024

S.O. 583.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 08/2017)** of the **Central Government Industrial Tribunal cum Labour Court, Kolkata** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Life Insurance Corporation of India** and **their Workmen/Union** which was received along with soft copy of the award by the Central Government on 21.03.2024.

[No. L-17011/5/2016-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 08 OF 2017

Parties : Employers in relation to the management of

M/s. Life Insurance Corporation of India

AND

Their Workmen / Union

Appearance:

On behalf of the Management: Authorised Representative.

On behalf of the Union/Workmen : None

Dated: 28th February, 2024

AWARD

By order No. L-17011/5/2016 –IR(M) dated 13-02-2017, the Central Government, Ministry of Labour in exercise of power conferred u/s 10 (1) (d) and sub-section (2A) of Industrial Dispute Act, 1947 has referred the following dispute to this Tribunal for adjudication:-

"Whether the action of the management of Life Insurance Corporation of India, Eastern Zonal Office, Hindustan Building, 4, C.R. Avenue, Kolkata : 072 for not granting stagnation increment in respect of Sri Deepak Kumar Dey (since dead and represented by his legal heirs) w.e.f. 1st April, 2015 is legal and/or justified. If not, to what relief the workman concerned is entitled?"

The workman/Union which has raised the present dispute in its claim statement has alleged that Sri Deepak Kumar Dey was a Senior Assistant (already retired on 31-03-2017) was working in Estate Department at Eastern Zonal Office, Kolkata.

That the deceased workman was an office bearer of the union and as such he was victimised by Mrs. Swapna Mukherjee, Secretary (Estate).

That for no reason the management of Life Insurance Corpn. of India stopped payment of his stagnation increment w.e.f. 1st April, 2015. Therefore, he was not allotted any duty by Mrs. Swapna Mukherjee. He was duly informed about stoppage of his increment by Mrs. Mukherjee through a letter dated 21-04-2015.

Being aggrieved by such vindictive attitude of the Secretary (Estate), Sri Deepak Kumar Dey requested the management through his Union for release of his increment but of no avail. Hence, the reference.

Such case of the workman has been contested by the management of Life Insurance Corpn. of India, by filing written statement where it has alleged that as per Annual Confidential Report of Sri Deepak Kumar Das received from the Department where the concerned workman was working was below average in the calendar years 2007 and 2014. That in his Annual Confidential Report for the year 2001, 2002 and 2005 he was rated as an average worker. The work performance of an employee of LIC is judged as per purview of Regulations of LIC of India (Staff) Regulations,1960.

That on receipt of Confidential Report of Mr. Dey from Estate Department, P & IR Department evaluated the CR rating of Mr. Dey of last two years and found he had scored 16.5 marks. As per rule, for granting stagnation increment the employee in the cadre of Assistant has to secure minimum rating of 21 out of 35. In view of Per-Admn/ZD/2 dated 16-10-1991 the Reporting Officer reported in CRs of Sri Dey, that he was given several verbal warnings for his poor work performance. Considering the other factors the Assistant Secretary (OS), who is the competent authority to release stagnation increment as per Gazette Notification GRS No. 443€ dated 18-06-1999, found the record of Sri D. K. Dey not satisfactory for release of stagnation increment. The stagnation increment of Sri D. K. Dey was deferred for one year and same was intimated to Sri Dey vide letter dated 21-04-2015. Thus, it has prayed for dismissal of the reference being not maintainable.

The record shows the deceased concerned workman had examined himself as W.W. No.1, but no document whatsoever has been produced by him in support of his claim and case. Ultimately, after his demise as per materials on record on 08-02-2022, his legal heirs who have been substituted have failed to put appearance and pursue the matter.

On the other hand the management declined to adduce any evidence either oral or documentary. However, the management of LIC has filed a letter dated 18-08-2020 addressed to Sri Deepak Kumar Dey, where he was informed about sanction of his pension, commuted value and balance pension after commutation.

However, the workman during his cross examination under oath before the Tribunal on 19-12-2019 had admitted that he was working as an Assistant in Estate Department of LIC of India. He retired from the service on 31-03-2017. His stagnation increment was deferred due to his poor performance. That his deferred stagnation increment was released by the management of LIC of India before his retirement.

More so, Life Insurance Corporation of India, Class-III & Class –IV Employees (Revisions of Terms and Conditions of Service) Rules, 1985, clause-7 provides that 'addition to basic pay after reaching maximum of scale is granted to an employee subject to the work record of the employee is found satisfactory and condition of fulfilling certain criteria'. The circular regarding increment dated 20-09-1976 issued by LIC of India shows that 'stagnation increment is to be released to an employee on his record of work being found satisfactory, the employee should put in an active service of at least one year during two relevant years in order to assess his work record after he has reached the maximum scale of pay applicable to him'. Thus, from the above rules and circulars it appear in order to get stagnation increment or addition to basic pay after reaching maximum of scale, the service record of an employee of LIC of India has to be satisfactory. In the present case it is admitted fact that stagnation increment of the concerned workman was deferred due to his poor performance. Therefore, apparently the management of LIC of India was justified in withholding stagnation increment of the concerned workman but it was admitted by the deceased workman he was paid the deferred stagnation increment by the management of LIC of India before his retirement.

It is settled law that admission is the best evidence. As per admission of the workman his stagnation increment was withheld by the management of LIC of India due to his poor performance. He has also admitted that his deferred stagnation increment was released by the management of LIC of India before his retirement on 31-03-2017. The order of reference shows the dispute regarding withholding of his stagnation increment was referred to this Tribunal by the Govt. of India, Ministry of Labour & Employment on 13-02-2017.

Thus, from the above admitted facts, it is seen that the management of LIC of India settled the dispute regarding withholding of stagnation increment of the concerned workman before his retirement. Further, from the letter dated 18-08-2020 filed by A.R. of the management of LIC of India before this Tribunal on 21-02-2024, it is seen that commuted value and pension of concerned workman were released and his gross monthly pension was fixed Rs.21,792/-. The other documents lying in the record shows Smt. Renuka Dey, widow of deceased, have already applied for family pension.

In view of above, at present there exists no dispute regarding withholding of stagnation increment of the deceased workman by the management of LIC of India. Accordingly, no dispute award is passed and Reference No. 08 of 2017 is disposed of.

Justice K. D. BHUTIA, Presiding Officer

नई दिल्ली, 21 मार्च, 2024

का.आ. 584.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **सीसीआई, राजबन सीमेंट फैक्ट्री** के प्रबंधतंत्र के संबद्ध नियोजकों और **सीसीआई मज़दूर यूनियन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़**, पंचाट **(रिफरेन्स न.-13/2014)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21.03.2024 को प्राप्त हुआ था।

[सं. एल-29011/44/2013-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 21st March, 2024

S.O. 584.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 13/2014)** of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **CCI, Rajban Cement Factory** and **CCI Mazdoor Union** which was received along with soft copy of the award by the Central Government on 21.03.2024.

[No. L-29011/44/2013-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh.

Present: Mr. Kamal Kant, Presiding Officer.

ID No.13/2014

Registered on:-18.06.2014

General Secretary, CCI Mazdoor Union, Rajban Cement Factory, Paonta Sahib, Distt. Sirmour(HP).

.....Workmen-Union

Versus

The General Manager, CCI, Rajban Cement Factory, Paonta Sahib, Distt. Sirmour(H.P.).

.....Respondent/Management

AWARD

Passed On:-05.03.2024

Central Government vide Notification No.L-29011/44/2013-IR(M), Dated 20.05.2014, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> **"Whether the demands raised by General Secretary, CCI Mazdoor Union, Rajban Cement Factory, Paonta Sahib, Distt. Sirmour as per their charges of demands dated 18.11.2011 against the management of CCI, Rajban Cement Factory, Paonta Sahib, Distt. Sirmour is just, valid and legal? If not, to what other benefits to the works entitled for and what directions are necessary in the matter?**

1. Today i.e. 05.03.2024 the case was fixed for arguments. On scrutiny of the order sheets, it is revealed that the workmen-Union is not appearing/representing on 21.07.2022, 03.02.2023, 24.03.2023, 22.05.2023, 28.07.2023, 11.10.2023, 22.11.2023 and today also i.e. 05.03.2024, whereas several dates for arguments have been fixed by the Tribunal, which denotes that workmen-union is neither serious nor interested in disposal of the case on merit.

2. Since the workmen-union has neither put his appearance for long nor he has argued the case to prove his cause against the management and the workmen-union has left the case unattended for a long time without any intimation, as such, this Tribunal is left with no choice, except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the present reference for the non-prosecution of the workmen-union.

3. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 21 मार्च, 2024

का.आ. 585.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, I - दिल्ली के पंचाट (22/2021) प्रकाशित करती है।

[सं. एल -12011/49/2020- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 21st March, 2024

S.O. 585.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 22/2021*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court -I Delhi* as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workmen.

[No. L-12011/49/2020- IR(B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVENRMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT DELHI-1, ROOM NO. 207, ROUSE AVENUE COURT COMPLEX, NEW DELHI

I.D. NO. 22/2021

The General Secretary,
Dena Bank Employees Association,
Central Office, Bank of Baroda,
4th Floor, Rajendra Place,
New Delhi-110008

…..…….Workman

Versus

1. The Zonal Manager,
Bank of Baroda,
Zonal Office, 16, Sansad Marg,
New Delhi-110001

……..Management

AWARD

1. In the present case, a reference was received from the appropriate Government vide letter No. L-12011/49/2020 (IR(B-II) of dated 08.01.2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

> "Whether there exists relationship of employer-employee between the applicants/drivers (Details as per Annexure 'A') and the management of Bank of Baroda? If yes, whether these applicants (Details as per Annexure 'A') are entitled for absorption/regularization of their services as Drivers with the management of Bank of Baroda? If yes, from which date and what directions are necessary in this regard?"

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the management. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNAVAR SHRIVASTAVA (Retd.), Presiding Officer

नई दिल्ली, 21 मार्च, 2024

का.आ. 586.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **सीमेंट कॉर्पोरेशन ऑफ़ इंडिया लिमिटेड (सीसीआई)** के प्रबंधतंत्र के संबद्ध नियोजकों और **सीमेंट मज़दूर यूनियन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर**, पंचाट **(रिफरेन्स न.-02/2020)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21.03.2024 को प्राप्त हुआ था।

[सं. जेड-16025/03/2024-आईआर(एम)-1]

दिलीप कुमार, अवर सचिव

New Delhi, the 21st March, 2024

S.O. 586.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 02/2020)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Cement Corporation of India Limited (CCI)** and **Cement Mazdoor Union** which was received along with soft copy of the award by the Central Government on 21.03.2024.

[No. Z-16025/03/2024-IR(M)-1]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/A/02/2020

The President, Cement Mazdoor Union,

Jawad Saifi Villa, Opposite State Bank of India

Veer Park Road, Neemuch (M.P)

On behalf of Security Guards

CCI Nayagaon Cement Factory

Tehsil : Jawad, Distt: Neemuch (MP)

APPLICANT

VERSUS

The General Manager (NOU)

Cement Corporation of India Ltd. (CCI)

Core-5 SCOPE Complex, Lodi Road

New Delhi – 110003

NON-APPLICANT

ORDER

(Passed on this 19th day of February 2024)

The petition has been filed by the President of the workman union under section 33A of the Industrial Disputes Act 1947, hereinafter referred to by the word Act, wherein it has been stated that the workman in another union has raised an industrial dispute being aggrieved by the action of the management in not regularising the services of Sri Gheeshlal Sharma and 39 others, even after completing 240 days in a calendar year. Reference in this respect, made by the Central Government is spending disposal before this Tribunal, the management has filed its written statement of defence in that case. The management have proceeded to selling out the nonworking unit of the management i.e cement Corporation of India (in short C.C.I.) In the Nayagaon Madhya Pradesh. The management has issued notices to the establishments who are having any dues to be cleared by the management. The management is further, proposing to transfer the provident fund accounts of the workmen from provident fund office, New Delhi provident fund office at Ujjain ignoring the representations of the workmen union against this action. The workmen union has prayed. Accordingly, that this action of management be held illegal and improper and the sale process as well process of transferring the provident fund accounts of the workmen be stayed.

The management has filed a written objection, wherein it has been stated that case number R/50/2014 is pending before this Tribunal on the basis of reference sent to this Tribunal by Central Government. The unit is a sick unit and has lost its net worth. It has been referred to BIFR and has been declared sick under sick industrial companies (special provisions) act 1985 wide order dated August 8th , 1996. Rehabilitation package for its revival was sanctioned through sanction scheme on May 3rd,2006 in which 7 units of the management, including its unit at Nayagaon has been proposed for sale. The management has accordingly issued a notice of closure of its Nyagaon unit on July 28th,2008 and the said unit has been closed from October 31st 2008. Its employees have been given terminal benefits. Two attempts were made to sell the unit at two occasions in the year 2008 and 2013, but unsuccessful. In the year 2016, the entire cement Corporation of India has been this invested in two phases and against sale process has been started. The applicant's claim themselves to be the employees of the management of cement Corporation of India are in fact, the employees of the contactor who has been given the task of security of the plant and machinery of

the management. There provident fund payments and accounts are managed by the contactor and not by the management. Accordingly, management has prayed that the petition be dismissed

As regards to the first relief claimed by the Workman union regarding staying of sale process of the unit is not cognizable by this Tribunal in industrial disputes act because this act is itself does not qualify to be an industrial dispute as defined in section 2(k) of the Act.

The second relief claimed also is not an industrial dispute in the light of definition of industrial dispute as mentioned above. The provident fund of an employee is deducted under the provisions of the employees provident fund and miscellaneous provisions act 1952. It is beyond comprehension as to how transfer of provident fund of an employee, working in Madhya Pradesh, from Delhi to Ujjain is against his interest.

In the light of above discussion, the petition deserves to be rejected and is rejected accordingly. No order as to cost.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 21 मार्च, 2024

का.आ. 587.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स जयप्रकाश एसोसिएट्स लिमिटेड, जेपी रेवा प्लांट वर्क्स** के प्रबंधतंत्र के संबद्ध नियोजकों और **सीमेंट मज़दूर एकता यूनियन (सीआईटीयू)** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर**, पंचाट **(रिफरेन्स न.-45/2021)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21.03.2024 को प्राप्त हुआ था।

[सं. एल-29011/24/2021-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 21st March, 2024

S.O. 587.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 45/2021)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Jaiprakash Associates Limited, JP Reva Plant Works** and **Cement Mazdoor Ekta Union (CITU)** which was received along with soft copy of the award by the Central Government on 21.03.2024.

[No. L-29011/24/2021-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/45/2021

Present: P.K.Srivastava

H.J.S..(Retd)

The President/General Secretary,
Cement Mazdoor Ekta Union (CITU),
J.P Cement Rewa, Jaypee Nagar
Rewa (MP) – 486450

Workman

Versus

The Factory Manager/Sr. Joint President,
M/s Jaiprakash Associates Ltd.
Jaypee Rewa Plant Works,
PO – Jaypeenagar, Rewa (MP) –486450

Management

AWARD

(Passed on this 21st day of February-2024)

As per letter dated 16/09/2021 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-29011/24/2021 (IR(M)) dt. 16/09/2021 . The dispute under reference related to :-

"1. Whether the workers as per List (Annexure-F) are entitled to wages during the lockdown period or not? If not what relief are they entitled to?

2. Whether the demands for taking back the workers for employment as per List (Annexure-F) are justified & legal or not? If not, as to what relief are they entitled to?"

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of allotment of time and service of notice, the workman never turned up and submitted his statement of claim. Management also did not file its written statement of claim/ defence. No evidence was ever produced by any of the parties in this tribunal.

The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of workman not proved the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 21 मार्च, 2024

का.आ. 588.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स भिलाई जेपी सीमेंट लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **जिला सतना सीमेंट स्टील फाउंड्री खदान कामगार यूनियन (एटक)** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर**, पंचाट **(रिफरेन्स न.-41/2021)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21.03.2024 को प्राप्त हुआ था।

[सं. एल-29011/18/2021-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 21st March, 2024

S.O. 588.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 41/2021)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Bhilai Jaypee Cement Limited** and **Zila Satna Cement Steel Foundry Mine Workers Union (AITUC)** which was received along with soft copy of the award by the Central Government on 21.03.2024.

[No. L-29011/18/2021-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/41/2021

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary,
Zila Satna Cement Steel Foundry Khadan Kamgar
Union (AITUC), AITUC Office Santnagar, Ghoordang
Ward No. 11, PO- Birla Vikas, Satna (MP)

Workman

Versus

The Factory Manager,
M/s Bhilai Jaypee Cement Ltd.,
PO- Babupur, Satna (MP) – 485112

Management

AWARD

(Passed on this 23Th day of February-2024.)

As per letter dated 23/08/2021 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-29011/18/2021(IR(M)) dt. 23/08/2021. The dispute under reference related to :-

"Whether the demand raised by the Zila Satna Cement Steel Foundry Khadan Kamgar Union (AITUC), Satna for classification of the post & difference of wages & other benefits by regularizing to the contract labour (List of labours Annexure-A), is legal, justified and valid?

If not, as to what relief the contract labour are entitled to?"

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of allotment of time and service of notice, the workman never turned up and submitted his statement of claim. Management also did not file its written statement of claim/ defence. No evidence was ever produced by any of the parties in this Tribunal.

The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of workman not proved the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 21 मार्च, 2024

का.आ. 589.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स ओएनजीसी लिमिटेड; मेसर्स सीताराम एनर्जी एंड लोजिस्टिक्स लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **ओएनजीसी एडमिनिस्ट्रेटिव एंड टेक्निकल कॉन्ट्रैक्ट वर्कर्स एसोसिएशन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद**, पंचाट **(रिफरेन्स न.-133/2019)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21.03.2024 को प्राप्त हुआ था।

[सं. एल-30011/27/2019-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 21st March, 2024

S.O. 589.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 133/2019)** of the **Central Government Industrial Tribunal cum Labour Court, Ahmedabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s ONGC Limited; M/s Sitaram Energy and Logistics Limited** and **ONGC Administrative and Technical Contract Workers Association** which was received along with soft copy of the award by the Central Government on 21.03.2024.

[No. L-30011/27/2019-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present….

Sunil Kumar Singh-I,

Presiding Officer,

CGIT cum Labour Court,

Ahmedabad,

Dated : 23.02.2024

Reference: (CGITA) No- 133/2019

1. The General Manager (HR) I/C HR-ER,
   M/s ONGC Limited, Mehsana Asset,
   KDM Bhawan, Palavasana, Mehsana,
   Gujarat, Pin Code – 384003.
2. The Director,
   M/s Sitaram Energy & Logistics Ltd.,
   12, Shakespeare Sarani,
   Kolkata – 700071. …...…….First Party

V

The General Secretary,

O.N.G.C. Administrative & Technical

Contract Workers Association,

B-144, Saraswati Nagar, I.O.C. Road,

Chandkhed, Ahmedabad (Gujarat)- 382424 …….Second Party

For the First Party No.1 : Shri P.F. Zaveri

For the First Party No.2 : None

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30011/27/2019-IR(M) dated 14.10.2019 referred the dispute for adjudication to the Central Government Industrial Tribunal- cum-Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of O.N.G.C. Administrative & Technical Contract Workers Association, Ahmedabad vide letter dated 27.09.2017 and 04.05.2018 in respect of S/Shri (s) Dattatrayam Vasant Damame & 16

others (list enclosed) who are/were working as a contractual worker under various contractor(s) of the ONGC Ltd, Mehsana Asset, Mehsana to give Permanent status of ONGC Ltd, Mehsana Asset, Mehsana with similar wages and other benefits of ONGC Ltd, Mehsana Asset, Mehsana which are being paid to the permanent workmen of the ONGC Ltd, Mehsana Asset, Mehsana from the date of their respective initial date of joining is legal, fair & justified?

If yes, then what relief these disputants [S/Shri (s) Dattatrayam Vasant Damame & 16 others] are entitled to and what other directions, if any, are necessary in this matter?"

1. The matter was taken up today. First Party employer No.1 is represented through Ld. Counsel Shri P. F. Zaveri. None responds for First Party employer No.2. None responds for SP/wrokmen's union. Perusal of record shows that the case on behalf of 6 workmen, namely Dattaryam Damame Sr. No.1, Motaliya BipinKumar Sr. No.9, Sanjaybhai Maganbhai Sr. No.10, Vanraj Modiya Sr. No.12, Jitender Gupta Sr. No.15 and Vanishkumar G. Dub Sr. No.16 has been withdrawn vide order dtd. 31.10.2023. The case is fixed for statement of claim to be filed on behalf of remaining eleven workmen namely Thakor Kiranji Kuvarji Sr. No.2, Sartaj Ishtahar Sr. No.3, Amrendra Bin Sr. No.4, Nitish Ram Mahent Ram Sr. No.5, Altab Ahamad Jainudin Sr. No.6, Sukhbir Singh Piarasingh Sr. No.7, Washid Ansharj Sr. No.8, Desai Mohan Kumar Sr. No.11, Md. Naseem Ansari Sr. No.13, Monu Yadav Sr. No.14 and Thakor Dilipji Bachuji Sr. No.17. They have not filed any statement of claim despite various opportunities. It appears that these eleven absentee SP/workmen are not interested to proceed further in the matter. There is no evidence on record to substantiate the claim of these remaining 11 workmen under reference. In the circumstances, the claim under scheduled reference is answered against these 11 absentee SP workmen holding that their said demand to have their status as permanent is not legal, fair and justified for want of evidence.

2. The reference is answered accordingly.

Let two copies of the Award be sent to the Appropriate Government for the needful and for publication U/s 17(1) of the Industrial Disputes Act, 1947.

SUNIL KUMAR SINGH-I, Presiding Officer

नई दिल्ली, 21 मार्च, 2024

का.आ. 590.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **सीनियर डिविजनल मैनेजर,भारतीय जीवन बीमा निगम** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री चन्द्रप्रकाश** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ**, पंचाट **(रिफरेन्स न.-32/2017)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21.03.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024-आईआर(एम)-36]

दिलीप कुमार, अवर सचिव

New Delhi, the 21st March, 2024

S.O. 590.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 32/2017)** of the **Central Government Industrial Tribunal cum Labour Court, Lucknow** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Senior Divisional Manager, Bhartiya Jeevan Bima Nigam** and **Shri Chandraprakash** which was received along with soft copy of the award by the Central Government on 21.03.2024.

[No. Z-16025/04/2024-IR(M)-36]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL–CUM-LABOUR COURT LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 32/2017

BETWEEN

श्री चन्द्र प्रकाश पुत्र किशोरी लाल

मोहल्ला-माया बाजार दक्षिणी (डा० गोपाल के बगल में) जनपद-गोरखपुर (उ०प्र०)

AND

सीनियर डिवीजनल मैनेजर भारतीय जीवन बीमा निगम, मण्डल कार्यालय

तारामण्डल रोड, गोरखपुर-273017

AWARD

On 22.09.2017 the claimant/workman has filed the present industrial dispute as per the provisions of Section 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

The claimant in his statement of claim has submitted that he has been appointed as Peon with opposite party on 17.12.2011; however, his services have been terminated without any notice w.e.f. 16.12.2012.

Accordingly, the workman has prayed for following relief:

"(क) यह कि उपरोक्त वाद आई०डी० केस मानकर सुनवाई करने की कृपा करें।

(ख) यह कि दिनांक 16:02:2012 से की गयी सेवा समाप्ति आदेश को अनुचित ठहराये।

(ग) यह कि बेकारी काल में हो रही वेतन व अन्य आर्थिक हानियों को दिलाये।

(घ) व्यर्थ की मुकदमें बाजी के लिए वाद का परिव्यय भी दिलाये।"

After filing of pleadings on behalf of parties, Sri N.N. Srivastava, learned counsel for respondent has raised a preliminary objection that the present case, aggrieved by the alleged impugned action by which the services of the applicant was terminated/retrenched, he has approached this Tribunal by invoking the provisions of Section 2A of the Act read with section 2A (3) of the Act, so, in view of provisions as provided in section 2A (3) of the Act, as period of limitation is three years i.e. fixed period of limitation, thus, taking into consideration the provisions of section 2A(3) of the Act, present claim petition filed by the applicant on 22.09.2017 allegedly aggrieved by the order of termination/retrenchment dated 16.12.2012 is totally illegal and arbitrary and is barred by period of limitation as provided in the section 2A(3) of the Act.

In rebuttal, Sri R.K. Verma, learned counsel for claimant, placed reliance on para 3 of the statement of claim, which reads as under:

"3. यह कि माननीय सहायक श्रमायुक्त इलाहाबाद द्वारा वाद सं०-ए-7(07)/2017 को सुनवाई हेतु तिथि निर्धारित किया। निम्न तिथियों को 13.07.2017 व 10.08.2017 को सटेलमेन्ट हेतु निश्चित किया परन्तु समझौता न होने पर केन्द्रीय सरकार औद्यौगिक अधिकरण कम लेबर कोर्ट में सब्सेक्शन (2) (3) औद्योगिक विवाद अधिनियम की धारा-2 ए संशोधित 2010 के अनुसार सी०जी० आई०टी० में वाद लगाने की सलाह दि0-10.08.17 को लिखित रूप में दिया"

Accordingly, Sri Verma submitted that preliminary objection raised by respondent has no merit, liable to be dismissed.

I have heard learned counsel for parties and gone through the record.

Now the core question which is to be considered is that in view of the facts which are stated hereinabove, admittedly the services of the applicant was terminated on 16.12.2012 and thereafter he has filed the present case before this Tribunal u/s 2A of the Act on 22.09.2017 on the grounds as taken by him as quoted hereinabove, is maintainable or barred by the period of limitation as provided u/s 2A(3).

Hon'ble the Karnataka High Court in ***ITC Infotech India Ltd. vs. Venkataramana Uppada ILR 2016 Karnataka 3041*** has held as under:

"9. Section 2A of the I.D. Act enables the individual workman to raise a dispute connected with or arising out of his discharge, dismissal, retrenchment or otherwise termination of his services by his employer and by legal fiction it would constitute "Industrial Dispute". No other type of dispute regarding an individual workman is contemplated by Section 2A. After the enactment of Section 2A, it is not necessary that a dispute relating to the discharge, dismissal, retrenchment or otherwise termination of service of a workman must be sponsored by a trade union or a substantial number of workman. In other words, even if it is not sponsored by a trade union or a substantial number of workman, such a dispute will be deemed to be an industrial dispute. Section 2A of the ID Act reads as under:

> *"2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute -*
>
> *"(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.*
>
> *(2) Notwithstanding anything contained in Section 10, any such workman as is specified in sub-Section(1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.*
>
> *(3) The application referred to in sub-Section(2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section(1)."*

10. By Act 24 of 2010, Section 2A was renumbered as sub-Section(1) and by same Act i.e., Act 24 of 2010 sub-Section (2) and (3) came to be inserted after Section 2A(1) of the I.D. Act. The said amendment Act came into effect on and from 15th September, 2010. In the absence of any specific provision to the contrary Act 24 of 2010 is to be held operative prospectively.

11. The effect of amendment is that any workman who has been discharged, dismissed, retrenched or terminated as specified in sub-section (1) of Section 2A may make an application directly to the Labour Court or Tribunal for adjudication of his individual dispute after the expiry of 45 days from the date he has made an application to the conciliation officer of the appropriate Government for conciliation of the dispute. Sub-Section (3) of Section 2A lays down the time limit for making such application to Labour Court or Tribunal. It provides that such application to the Labour Court or Tribunal for adjudication of the dispute shall be made before the expiry of three years from the date of discharge, dismissal and retrenchment or otherwise termination of service as specified in subSection(1).

12. A bare reading of above provision would indicate that a dispute covered under sub-Section(1) can be agitated or questioned by a workman by making an application directly to the Labour Court or Tribunal for adjudication of such dispute and such application should be filed before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service. In other words, the right conferred under Section 2A would lapse immediately preceding the date of expiry of three years of the date of dismissal, discharge etc. Sub-Section (3) of Section 2A would operate independently. The right available to the workman under Section 2A is not withstanding anything contained in Section 10 of the ID Act.

13. Thus, question which would arise for consideration in the instant case is; Whether dispute raised beyond three years from the date of discharge, dismissal or retrenchment can be entertained by the Labour Court or Tribunal by condoning the delay if any in raising the dispute or filing a claim petition or in other words, if an application for condonation of delay under Section 5 of the Limitation Act is filed, would it be maintainable and such delay can be condoned?

14. Prior to incorporation of Section 2A a workman had to necessarily depend upon the trade unions to espouse his cause for seeking reference under Section 10(1)(c) of the I.D. Act. The incorporation of Section 2A enabled the workman to approach the Labour Court or Tribunal directly and prevented the mischief of unreasonable delay occasioning on account of reference not being referred to by the appropriate Government under Section 10(1)(c) of the Act.

15. Section 10(4A) of the I.D. Act introduced by Karnataka Amendment Act 5 of 1988 enables an individual workman to challenge a termination order by directly applying to the Labour Court within six months from the date of communication of such order of termination.

16. The period of limitation for filing a petition before the Labour Court is six months from the date of communication of such order. A Division Bench of this Court has held in KSRTC Vs KHALEEL AHMED AND ANR reported in ILR 2002 (3) Kar 3827 that the period of six months prescribed under Section 10(4A) cannot be extended. It has been held by the Division Bench as under:

> *"23. It seems quite clear to us that the State Legislature has incorporated sub-Section (4A) in Section 10 of the Act to provide a more expeditious remedy to the workman enabling him to redress his grievances without undergoing the ordeal of approaching any Labour Union and without approaching the State Government for referring his case to the Labour Court. Therefore, the remedy provided under sub-Section (4-A) is a remedy alternative to what is provided under sub-Section (1) of Section 10 of the Act. But the right created under the State Amendment is coupled with a condition that individual workman has to prefer application before the Labour Court within the time frame of six months fixed by the legislature. It is a statutory condition precedent for exercise of the right and availment of remedy under sub-Section (4-A) of Section 10 of the Act. Therefore, it has to be held that if an application is filed beyond the period of 6 months as prescribed under the above sub-Section, then it will be incumbent on the part of the Labour Court not to entertain such an application since the condition does not only bars the special remedy but it also strikes at the jurisdiction of the Labour Court to entertain such an application. Such an interpretation is in consonance with the general rule of interpretation of statute. Such construction will not also in any way prejudice the right of a workman to get his dispute resolved by a reference under sub-Section 10(1) of the Act provided the dispute sought to be raised do not become stale because of his inaction as held by the Supreme Court in the cases of Balbir Singh Vs Punjab Roadways, Indian Iron and Steel Co. Ltd., Vs Prahlad Singh and Telecom District Manager Vs A.A. Angali".*
>
> *(emphasis supplied)*

17. In EXECUTIVE ENGINEER AND OTHERS VS LOKESH REDDY AND OTHERS reported in MANU/KA/0190/2003 : 2003 (3) LLJ 662 the point which came up for consideration was whether the period of limitation provided under Section 10(4A) of the Act is directory or mandatory and it came to be held that it was mandatory. It has been held as under:

> *"40. In view of the discussion made so far, we respectfully disagree with the view taken by the learned single judge in the present matters in holding the period of limitation provided under Section 10(4-A) of the Act as directory and not mandatory and affirm the view taken in the case of Khaleel Ahmed (supra), which has already clarified the said position of law holding the period of limitation in Section 10(4-A) as mandatory. So, the view taken by the Labour Court and affirmed by the learned single judge in the matters relating to period of limitation provided under Section 10(4-A) of the Act, being contrary to the Division Bench decision of this Court in the Case of Khaleel Ahmed (Supra) cannot be sustained and consequently, the impugned awards in allowing the applications filed after about six years (and not within six months) under Section 10(4-A) of the Act should have been set aside by the learned single judge. Since that was not done by the learned single judge in the impugned order, our interference is required".*

18. As to whether the plea of limitation though not raised, is required to be considered by the Labour Court or not while adjudicating a claim petition filed under Section 10(4A), came up for consideration before the Division Bench in SMT. RUKMINIBAI AND OTHERS VS THE DIVISIONAL CONTROLLER, NEKRTC, BIDAR DIVISION, BY ITS CHIEF LAW OFFICER reported in ILR 2013 Kar 1024 and held that Section 3 of the Limitation Act 1963, is peremptory in nature and imposing a duty on the Court to dismiss the applications which are barred by limitation even if the plea of limitation is not raised. It has been held as under:

> *"9. Section 3 of the Limitation Act, 1963, is peremptory in nature. It imposes a duty on the Court to dismiss the applications, which are barred by limitation even if the plea of limitation is not raised. If the claim petition is barred by time, the Court or an adjudicating authority has no power or authority to entertain such an application and decide it on merits. As stated, even in the absence of such a plea by the respondent or opponent, the Court or the authority must dismiss such an application if it is satisfied that the same is barred by limitation."*

19. Keeping the above principles in mind, a reading of Section 2A(3) would lead to an irresistible conclusion that time stipulated for invoking the jurisdiction of the Labour Court or the Tribunal as the

case may be, has to be necessarily "before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section (1)." Time limit for making an application to the Labour Court stipulated in sub-Section (3) of Section 2A does not appear to have a bearing to the provisions of sub-Section (2) of Section 2A. In any event right conferred under Section 2A would lapse immediately preceding the date of expiry of three years from the date of dismissal, discharge etc.,. In other words, the limitation of three years prescribed under sub-Section (3) of Section 2A being mandatory, same cannot be condoned by taking recourse to Section 5 of the Limitation Act, 1963 which has no application to the provisions of Industrial Disputes Act, 1947.

20. It is well settled principle that if an act is required to be performed within a specified time, the same would primarily be mandatory. It has been held in the case of NAZIRUDDIN VS SITARAM AGARWAL reported in AIR 2003 SCW 908 to the following effect:

> *"The Courts jurisdiction to interpret a statute can be invoked when the same is ambiguous. It is well known that in a given case, the Court can iron out the fabric but it cannot change the texture of the fabric. It cannot enlarge the scope of legislation or intention when the language of provision is plain and unambiguous. It cannot add or subtract the words to a statute or read something into it which is not there. It cannot re-write or recast legislation. It is also necessary to determine that there exists a presumption that the legislature has not used any superfluous words. It is well settled that the real intention of legislature must be gathered from the language used."*

21. Thus, in the background of the dicta of the Apex Court in NAZIRUDDIN's case referred to supra, when Section 2A is perused, it would indicate that if the legislature really intended that the period of limitation provided in sub-Section (3) of Section 2A was to be construed as directory, then it would not have prescribed the limitation of three years and it would have used the words "at any time" instead of using the words "before the expiry of three years". Though the words at any time' is found in Section 10(1), same is conspicuously absent in sub-Section(3) of Section 2A which would clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-Section (3) of Section 2A and as such legislature did not employ the words at any time' in the said provision as found in Section 10(1) and in its place, it has specifically incorporated the words before the expiry of three years'. Hence, to interpret the period of limitation found in sub-Section (3) of Section 2A as directory and not mandatory would amount to adding something which is not provided in the provision by the legislature or it would amount to doing violence to the provision, if such interpretation is sought to be made.

22. In the background of aforestated discussion, when the facts of hand are examined, it would clearly indicate that on the services of the employee -respondent being terminated by the Management by letter of termination dated 11.02.2009, a reference was sought under Section 10(1)(c) (d) of the I.D. Act by the respondent by submitting a representation to Assistant Labour Commissioner, Bangalore on 06.09.2012. The appropriate Government made a reference by order dated 03.06.2013 - Annexure-N and pursuant to the same, proceedings was commenced before the Labour Court, Bengaluru in Reference No. 16/2013. After appearance of the respondent - employee before the Labour Court and before filing of the claim petition, a memo came to be filed on 07.11.2013 (part of Annexure-M) seeking withdrawal of the reference and permission to file a fresh application under Section 2A(2) of the I.D. Act. The said memo was partially accepted by the Labour Court as could be seen from the order dated 07.11.2013 (part of Annexure-M) passed on the said memo. It reads as under:

"First Party present and filed memo stating that the present reference is not maintainable and he intent's to file fresh application under Section 2A(2) of the I.D. Act.

Heard the respondent counsel. Perused the memo filed by the first party -workman for the reasons mentioned in memo the reference is hereby dismissed and case is closed."

And Hon'ble Rajasthan High court in the case of ***Pankaj Swami vs. Rajasthan State Road Transport Corporation & ors. MANU/RH/1788/2019*** after taking into consideration the provisions of sedation 2A(2) & 2A(3) of the Act held as under:

"The provisions are explicit, wherein the workman can approach the Labour Court for adjudication of the dispute in case of discharge, dismissal, retrenchment etc., however, sub-section (3) provides that the application should be made to the Labour Court before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified.

8. The submission made by learned Counsel for the petitioner that as the cause of action arose to the petitioner prior to introduction of the provision of limitation by sub-section (3) the same would have no application is concerned, the submission made is fallacious, inasmuch as, the provision under

which the application has been filed by the petitioner i.e. section 2-A(2) of the Act, itself was introduced by the amendment Act of 2010 alongwith the limitation therein and therefore, the provision of limitation which was introduced in the year 2010 alongwith the main provision providing for the limitation would apply with all force and the submission that the same would have no application to the cause of action, which arose prior to 2007, has no basis.

The submissions as made, if accepted, would result in circumstances where if the cause of action has arisen post 2010, the same would be barred, whereas the causes, which arose prior to 2010 like in the year 2007 in the present case and the application is filed after 7 years, the same would never become barred by limitation, such a result is legally untenable.

9. The submission made by learned Counsel for the petitioner that as the petitioner had approached the Conciliation Officer and had raised the dispute before him, where there was no limitation and the petitioner approached the Labour Court only as per the directions of the Conciliation Officer the claim could not be rejected by barred by limitation also does not advance the cause of the petitioner, inasmuch as, the petitioner could have taken advantage of the said position, if the Conciliation Officer had sent a failure report to the appropriate Government who in turn had referred the dispute to the Labour Court. Merely because the Conciliation Officer suggested approaching the Labour Court, which suggestion was accepted by the petitioner, cannot be termed as a reference under section 10 of the Act to the Labour Court.

10. In view of the above discussion in so far as the rejection of the claim of the petitioner by the Labour Court being barred by limitation is concerned, the same cannot be faulted."

And in the case of ***Parthasarathy vs. Souther Pins and Products Pvt. Ltd. and Ors. MANU/TN/6691/2020*** Hon'ble the High Court of Madras has held as under:

"Inasmuch as the notice of termination of the Petitioner in the present case has been made on 06.10.2014 under Section 2-A(2) of the Act after the said amendment has come into force, the limitation of three years prescribed under Section 2-A(3) of the Act would necessarily apply. As such, there is no infirmity in the decision-making process of the Labour Court in refusing to entertain the application made by the Petitioner has time barred. This view is supported by the decisions of this Court in the following cases:-

(i) ITC Infotech India Ltd. v. Venkataramana Uppada (Order dated 03.03.2016 in W.P. No. 27510 of 2015 passed by the High Court of Karnataka)

(ii) Management of Ashok Leyland v. Presiding Officer, Labour Court (Order dated 13.04.2016 in W.P. Nos. 9640 and 9641 of 2016 passed by this Court)

(iii) Ravi Kumar v. Management, Tamil Nadu State Road Transport Corporation (Order dated 11.04.2017 in W.P. (MD) No. 4269 of 2017 passed by the Madurai Bench of this Court)

(iv) K. Settu v. Assistant Engineer, Tamil Nadu Electricity Board (Order dated 20.09.2019 in W.P. No. 8413 of 2019 passed by this Court)

5. A feeble attempt is made on behalf of the Petitioner to suggest that the period of conciliation must be excluded while computing the limitation. It is, no doubt, true that Section 2-A(2) of the Act contemplates such application to be made to the Labour Court after the expiry of 45 days from the date of application to the Conciliation Officer is made. However, it does not require that the conciliation proceedings should have been completed before making that application under Section 2-A(2) of the Act. The words in Section 2-A(3) of the Act are clear enough that the limitation has to be reckoned on the expiry of three years from the date of termination. The Petitioner in the instant case had made the application for conciliation on 12.04.2017 which had also concluded on 27.06.2017, but the Petitioner had not approached the Labour Court after 45 days either from 12.04.2017 or even from 27.06.2017. As such, the contentions made on behalf of the Petitioner cannot be countenanced."

(see also Kandasamy Spinning Mills Private Ltd. vs S. Palanisamy and Ors. MANU/RN/6831/2019

Reverting the facts of the present case, and taking into the consideration as provided in section 2A (2) read with section 2A(3) of the Act and the law laid down by the various Hon'ble High Courts as stated hereinabove, as in the present case the services of the employee/workman have been terminated on 16.12.2012; and he has filed the present case on 22.09.2017 on the basis of reasoning as given by him in his claim petition is not maintainable, being barred by the provisions as provided u/s 2A(3) of the Act i.e. filed after three years, so the present case is liable to be dismissed.

Accordingly, the same stands dismissed; and the workman is not entitled for any relief.

Award as above.

LUCKNOW. Justice ANIL KUMAR, Presiding Officer

04th March, 2024.

नई दिल्ली, 21 मार्च, 2024

का.आ. 591.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **अम्बुजा सीमेंट लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **अम्बुजा सीमेंट वर्कर्स यूनियन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, चंडीगढ़**, पंचाट **(रिफरेन्स न.-5/2017)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21.03.2024 को प्राप्त हुआ था।

[सं. एल-29011/2/2017-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 21st March, 2024

S.O. 591.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 5/2017)** of the **Central Government Industrial Tribunal cum Labour Court-2, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Ambuja Cement Limited** and **Ambuja Cement Workers Union** which was received along with soft copy of the award by the Central Government on 21.03.2024.

[No. L-29011/2/2017-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Mr. Kamal Kant, Presiding Officer.

ID No. 5/2017

Registered on:-11.07.2017

The General Secretary, Ambuja Cement Workers Union, Daralaghat, Tehsil-Arki, Distt.-Solan, Himachal Pradesh-171102.
.....Workmen-Union

Versus

The Director, Ambuja Cement Ltd., Rouri & Sulli, Daralaghat, Distt. Solan(Himachal Pradesh)-171102.
.....Respondent/Management

AWARD

Passed On:-05.03.2024

Central Government vide Notification No.L-29011/2/2017-IR(M), Dated 28.06.2017, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

1. **"Whether action of the management of Ambuja Cement Ltd., Darlaghat and its 17 contractors in not providing canteen coupon, uniform, ID card with category with a mentioned of name of the Principal Employer on the card duly certified by the Labour Department (Demand No.1) is just, fair and legal? If not, to what relied the contract workers engaged by these 17 contractors are entitled?"**

2. **"Whether action of the management of Ambuja Cement Ltd., Darlaghat and its 17 contractors in not paying HRA (demand No.2) is just, fair and legal? If not, to what relief the contract workers engaged by these 17 contractors are entitled?"**

3. "Whether action of the management of Ambuja Cement Ltd. Darlaghat in not providing office building for the union(demand no.3) is just, fair and legal? If not, to what relief the union is entitled?"

4. "Whether action of the management of Ambuja Cement Ltd., Darlaghat in not considering the demand for regulation of contract labourers on completion of 6 years service (demand No.7) is just, fair and legal? If not, to what relief the union is entitled?"

1. Today i.e. 05.03.2024 the case was fixed for filing objection by the workmen-Union to the application moved by the management regarding framing of issues as well as to the application for taking on record the documents filed with the application. On scrutiny of the order sheets, it is revealed that the workmen-Union is not appearing/representing on 28.03.2023, 19.07.2023, 25.09.2023, 22.11.2023 and today also i.e. 05.03.2024, whereas several dates have been fixed by the Tribunal, which denotes that workmen-union is neither serious nor interested in disposal of the case on merit.

2. Since the workmen-union has neither put his appearance for long nor he has filing objection by the workmen-Union to the application moved by the management regarding framing of issues as well as to the application for taking on record the documents filed with the application to prove his cause against the management and the workmen-union has left the case unattended for a long time without any intimation, as such, this Tribunal is left with no choice, except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the present reference for the non-prosecution of the workmen-union.

3. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 21 मार्च, 2024

का.आ. 592.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय **मुख्य प्रबंधक हिंदुस्तान एयरोनॉटिक्स लिमिटेड, फैजाबाद रोड, लखनऊ; उपाध्यक्ष, एस.आई.एस. इंडिया लिमिटेड, अलीगंज, लखनऊ; शाखा प्रबंधक, एस.आई.एस. इंडिया लिमिटेड, इंदिरा नगर, लखनऊ,**के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री मनोज कुमार विश्वकर्मा, कामगार,** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- लखनऊ पंचाट(संदर्भ संख्या 21/2018) को जैसा कि अनुलग्नक में दिखाया गया है,** प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19/03/2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-51-आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 21st March, 2024

S.O. 592.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 21/2018**) of the **Central Government Industrial Tribunal cum Labour Court –Lucknow,** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Chief Manager Hindustan Aeronautics Ltd.,Faizabad Road, Lucknow ; The Vice President, S.I.S. India Ltd., Aliganj, Lucknow ; The Branch Manager, S.I.S. India Ltd., Indira Nagar, Lucknow,** and **Shri Manoj Kumar Vishwakarma, Worker,** which was received along with soft copy of the award by the Central Government on **19/03/2024.**

[No. L-42025/07/2024-51-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 21/2018

BETWEEN

Manoj Kumar Vishwakarma

R/o, 63/49, Hata Rasool Khan Guru Govind Singh Marg, Lucknow

AND

1-Chief Manager Hindustan Aeronautics Ltd.

Faizabad Road, Lucknow

2-Vice President, S.I.S. India Ltd.

26-Chandralok Colony, Aliganj, Lucknow

3-Branch Manager, S.I.S. India Ltd., D-3031, Munshi Pulia Crossing

Indira Nagar, Lucknow

AWARD

On 10.09.2018 the claimant/workman has filed the present industrial dispute as per the provisions of Section 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

The claimant in his statement of claim has submitted that he was initially engaged on 01.01.2007 as class IV worker with respondent no. 1; however, his services have been terminated without any notice w.e.f. 28.05.2015.

Accordingly, the workman has prayed for following relief:

> *It is therefore respectfully prayed that the workman may be held entitled for reinstatement with back wages from the date of his termination with consequential benefits."*

On 16.03.2020, respondent filed its preliminary objection and written statement; wherein it has submitted that present industrial dispute is not maintainable as per the provisions of section 2A (3) of the Act.

Sri Adarsh Jagdhari, learned counsel for respondent submitted that aggrieved by the alleged impugned action by which the services of the applicant was terminated/retrenched, he has approached this Tribunal by invoking the provisions of Section 2A of the Act read with section 2A (3) of the Act, so, in view of provisions as provided in section 2A (3) of the Act, as period of limitation is three years i.e. fixed period of limitation, thus, taking into consideration the provisions of section 2A(3) of the Act, present claim petition filed by the applicant on 10.09.2018 allegedly aggrieved by the order of termination/retrenchment dated 28.05.2015 is totally illegal and arbitrary and is barred by period of limitation as provided in the section 2A(3) of the Act.

I have heard learned counsel for parties and gone through the record.

Now the core question to be considered is that in view of the facts which are stated hereinabove, admittedly the services of applicant was terminated on 16.12.2012 and thereafter he has filed the present case before this Tribunal u/s 2A of the Act on 22.09.2017, is maintainable or barred by the period of limitation as provided u/s 2A(3)?

Hon'ble the Karnataka High Court in ***ITC Infotech India Ltd. vs. Venkataramana Uppada ILR 2016 Karnataka 3041*** has held as under:

> *"9. Section 2A of the I.D. Act enables the individual workman to raise a dispute connected with or arising out of his discharge, dismissal, retrenchment or otherwise termination of his services by his employer and by legal fiction it would constitute "Industrial Dispute". No other type of dispute regarding an individual workman is contemplated by Section 2A. After the enactment of Section 2A, it is not necessary that a dispute relating to the discharge, dismissal, retrenchment or otherwise termination of service of a workman must be sponsored by a trade union or a substantial number of workman. In other words, even if it is not sponsored by a trade union or a substantial number of workman, such a dispute will be deemed to be an industrial dispute. Section 2A of the ID Act reads as under:*

"2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute -

"(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Notwithstanding anything contained in Section 10, any such workman as is specified in sub-Section(1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-Section(2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section(1)."

10. By Act 24 of 2010, Section 2A was renumbered as sub-Section(1) and by same Act i.e., Act 24 of 2010 sub-Section (2) and (3) came to be inserted after Section 2A(1) of the I.D. Act. The said amendment Act came into effect on and from 15th September, 2010. In the absence of any specific provision to the contrary Act 24 of 2010 is to be held operative prospectively.

11. The effect of amendment is that any workman who has been discharged, dismissed, retrenched or terminated as specified in sub-section (1) of Section 2A may make an application directly to the Labour Court or Tribunal for adjudication of his individual dispute after the expiry of 45 days from the date he has made an application to the conciliation officer of the appropriate Government for conciliation of the dispute. Sub-Section (3) of Section 2A lays down the time limit for making such application to Labour Court or Tribunal. It provides that such application to the Labour Court or Tribunal for adjudication of the dispute shall be made before the expiry of three years from the date of discharge, dismissal and retrenchment or otherwise termination of service as specified in subSection(1).

12. A bare reading of above provision would indicate that a dispute covered under sub-Section(1) can be agitated or questioned by a workman by making an application directly to the Labour Court or Tribunal for adjudication of such dispute and such application should be filed before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service. In other words, the right conferred under Section 2A would lapse immediately preceding the date of expiry of three years of the date of dismissal, discharge etc. Sub-Section (3) of Section 2A would operate independently. The right available to the workman under Section 2A is not withstanding anything contained in Section 10 of the ID Act.

13. Thus, question which would arise for consideration in the instant case is; Whether dispute raised beyond three years from the date of discharge, dismissal or retrenchment can be entertained by the Labour Court or Tribunal by condoning the delay if any in raising the dispute or filing a claim petition or in other words, if an application for condonation of delay under Section 5 of the Limitation Act is filed, would it be maintainable and such delay can be condoned?

14. Prior to incorporation of Section 2A a workman had to necessarily depend upon the trade unions to espouse his cause for seeking reference under Section 10(1)(c) of the I.D. Act. The incorporation of Section 2A enabled the workman to approach the Labour Court or Tribunal directly and prevented the mischief of unreasonable delay occasioning on account of reference not being referred to by the appropriate Government under Section 10(1)(c) of the Act.

15. Section 10(4A) of the I.D. Act introduced by Karnataka Amendment Act 5 of 1988 enables an individual workman to challenge a termination order by directly applying to the Labour Court within six months from the date of communication of such order of termination.

16. The period of limitation for filing a petition before the Labour Court is six months from the date of communication of such order. A Division Bench of this Court has held in KSRTC Vs KHALEEL AHMED AND ANR reported in ILR 2002 (3) Kar 3827 that the period of six months prescribed under Section 10(4A) cannot be extended. It has been held by the Division Bench as under:

"23. It seems quite clear to us that the State Legislature has incorporated sub-Section (4A) in Section 10 of the Act to provide a more expeditious remedy to the workman enabling him to redress his grievances without undergoing the ordeal of approaching any Labour Union and without approaching the State Government for referring his case to the Labour Court. Therefore, the remedy provided under sub-Section (4-A) is a remedy alternative to what is provided under sub-Section (1) of Section 10 of the Act. But the right created under the State Amendment is coupled with a condition that individual workman has to prefer application before the Labour Court within the time frame of six months fixed by the legislature. It is a statutory condition precedent for exercise of the right and availment of remedy under sub-Section (4-A) of Section 10 of the Act. Therefore, it has to be held that if an application is filed beyond the period of 6 months as prescribed under the above sub-Section, then it will be incumbent on the part of the Labour Court not to entertain such an application since the condition does not only bars the special remedy but it also strikes at the jurisdiction of the Labour Court to entertain such an application. Such an interpretation is in consonance with the general rule of interpretation of statute. Such construction will not also in any way prejudice the right of a workman to get his dispute resolved by a reference under sub-Section 10(1) of the Act provided the dispute sought to be raised do not become stale because of his inaction as held by the Supreme Court in the cases of Balbir Singh Vs Punjab Roadways, Indian Iron and Steel Co. Ltd., Vs Prahlad Singh and Telecom District Manager Vs A.A. Angali".

(emphasis supplied)

17. In EXECUTIVE ENGINEER AND OTHERS VS LOKESH REDDY AND OTHERS reported in MANU/KA/0190/2003 : 2003 (3) LLJ 662 the point which came up for consideration was whether the period of limitation provided under Section 10(4A) of the Act is directory or mandatory and it came to be held that it was mandatory. It has been held as under:

"40. In view of the discussion made so far, we respectfully disagree with the view taken by the learned single judge in the present matters in holding the period of limitation provided under Section 10(4-A) of the Act as directory and not mandatory and affirm the view taken in the case of Khaleel Ahmed (supra), which has already clarified the said position of law holding the period of limitation in Section 10(4-A) as mandatory. So, the view taken by the Labour Court and affirmed by the learned single judge in the matters relating to period of limitation provided under Section 10(4-A) of the Act, being contrary to the Division Bench decision of this Court in the Case of Khaleel Ahmed (Supra) cannot be sustained and consequently, the impugned awards in allowing the applications filed after about six years (and not within six months) under Section 10(4-A) of the Act should have been set aside by the learned single judge. Since that was not done by the learned single judge in the impugned order, our interference is required".

18. As to whether the plea of limitation though not raised, is required to be considered by the Labour Court or not while adjudicating a claim petition filed under Section 10(4A), came up for consideration before the Division Bench in SMT. RUKMINIBAI AND OTHERS VS THE DIVISIONAL CONTROLLER, NEKRTC, BIDAR DIVISION, BY ITS CHIEF LAW OFFICER reported in ILR 2013 Kar 1024 and held that Section 3 of the Limitation Act 1963, is peremptory in nature and imposing a duty on the Court to dismiss the applications which are barred by limitation even if the plea of limitation is not raised. It has been held as under:

"9. Section 3 of the Limitation Act, 1963, is peremptory in nature. It imposes a duty on the Court to dismiss the applications, which are barred by limitation even if the plea of limitation is not raised. If the claim petition is barred by time, the Court or an adjudicating authority has no power or authority to entertain such an application and decide it on merits. As stated, even in the absence of such a plea by the respondent or opponent, the Court or the authority must dismiss such an application if it is satisfied that the same is barred by limitation."

19. Keeping the above principles in mind, a reading of Section 2A(3) would lead to an irresistible conclusion that time stipulated for invoking the jurisdiction of the Labour Court or the Tribunal as the case may be, has to be necessarily "before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section (1)." Time limit for making an application to the Labour Court stipulated in sub-Section (3) of Section 2A does not appear to have a bearing to the provisions of sub-Section (2) of Section 2A. In any event right conferred under Section 2A would lapse immediately preceding the date of expiry of three years from the date of dismissal, discharge etc.,. In other words, the limitation of three years prescribed under sub-Section (3) of Section 2A being mandatory, same cannot be condoned by taking recourse to

Section 5 of the Limitation Act, 1963 which has no application to the provisions of Industrial Disputes Act, 1947.

20. It is well settled principle that if an act is required to be performed within a specified time, the same would primarily be mandatory. It has been held in the case of NAZIRUDDIN VS SITARAM AGARWAL reported in AIR 2003 SCW 908 to the following effect:

> *"The Courts jurisdiction to interpret a statute can be invoked when the same is ambiguous. It is well known that in a given case, the Court can iron out the fabric but it cannot change the texture of the fabric. It cannot enlarge the scope of legislation or intention when the language of provision is plain and unambiguous. It cannot add or subtract the words to a statute or read something into it which is not there. It cannot re-write or recast legislation. It is also necessary to determine that there exists a presumption that the legislature has not used any superfluous words. It is well settled that the real intention of legislature must be gathered from the language used."*

21. Thus, in the background of the dicta of the Apex Court in NAZIRUDDIN's case referred to supra, when Section 2A is perused, it would indicate that if the legislature really intended that the period of limitation provided in sub-Section (3) of Section 2A was to be construed as directory, then it would not have prescribed the limitation of three years and it would have used the words "at any time" instead of using the words "before the expiry of three years". Though the words at any time' is found in Section 10(1), same is conspicuously absent in sub-Section(3) of Section 2A which would clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-Section (3) of Section 2A and as such legislature did not employ the words at any time' in the said provision as found in Section 10(1) and in its place, it has specifically incorporated the words before the expiry of three years'. Hence, to interpret the period of limitation found in sub-Section (3) of Section 2A as directory and not mandatory would amount to adding something which is not provided in the provision by the legislature or it would amount to doing violence to the provision, if such interpretation is sought to be made.

22. In the background of aforestated discussion, when the facts of hand are examined, it would clearly indicate that on the services of the employee -respondent being terminated by the Management by letter of termination dated 11.02.2009, a reference was sought under Section 10(1)(c) (d) of the I.D. Act by the respondent by submitting a representation to Assistant Labour Commissioner, Bangalore on 06.09.2012. The appropriate Government made a reference by order dated 03.06.2013 - Annexure-N and pursuant to the same, proceedings was commenced before the Labour Court, Bengaluru in Reference No. 16/2013. After appearance of the respondent - employee before the Labour Court and before filing of the claim petition, a memo came to be filed on 07.11.2013 (part of Annexure-M) seeking withdrawal of the reference and permission to file a fresh application under Section 2A(2) of the I.D. Act. The said memo was partially accepted by the Labour Court as could be seen from the order dated 07.11.2013 (part of Annexure-M) passed on the said memo. It reads as under:

"First Party present and filed memo stating that the present reference is not maintainable and he intent's to file fresh application under Section 2A(2) of the I.D. Act.

Heard the respondent counsel. Perused the memo filed by the first party -workman for the reasons mentioned in memo the reference is hereby dismissed and case is closed.

And Hon'ble Rajasthan High court in the case of ***Pankaj Swami vs. Rajasthan State Road Transport Corporation & ors. MANU/RH/1788/2019*** after taking into consideration the provisions of sedation 2A(2) & 2A(3) of the Act held as under:

> *"The provisions are explicit, wherein the workman can approach the Labour Court for adjudication of the dispute in case of discharge, dismissal, retrenchment etc., however, sub-section (3) provides that the application should be made to the Labour Court before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified.*
>
> *8. The submission made by learned Counsel for the petitioner that as the cause of action arose to the petitioner prior to introduction of the provision of limitation by sub-section (3) the same would have no application is concerned, the submission made is fallacious, inasmuch as, the provision under which the application has been filed by the petitioner i.e. section 2-A(2) of the Act, itself was introduced by the amendment Act of 2010 alongwith the limitation therein and therefore, the provision of limitation which was introduced in the year 2010 alongwith the main provision providing for the limitation would apply with all force and the submission that the same would have no application to the cause of action, which arose prior to 2007, has no basis.*

The submissions as made, if accepted, would result in circumstances where if the cause of action has arisen post 2010, the same would be barred, whereas the causes, which arose prior to 2010 like in the year 2007 in the present case and the application is filed after 7 years, the same would never become barred by limitation, such a result is legally untenable.

9. The submission made by learned Counsel for the petitioner that as the petitioner had approached the Conciliation Officer and had raised the dispute before him, where there was no limitation and the petitioner approached the Labour Court only as per the directions of the Conciliation Officer the claim could not be rejected by barred by limitation also does not advance the cause of the petitioner, inasmuch as, the petitioner could have taken advantage of the said position, if the Conciliation Officer had sent a failure report to the appropriate Government who in turn had referred the dispute to the Labour Court. Merely because the Conciliation Officer suggested approaching the Labour Court, which suggestion was accepted by the petitioner, cannot be termed as a reference under section 10 of the Act to the Labour Court.

10. In view of the above discussion in so far as the rejection of the claim of the petitioner by the Labour Court being barred by limitation is concerned, the same cannot be faulted."

And in the case of ***Parthasarathy vs. Souther Pins and Products Pvt. Ltd. and Ors. MANU/TN/6691/2020*** Hon'ble the High Court of Madras has held as under:

"Inasmuch as the notice of termination of the Petitioner in the present case has been made on 06.10.2014 under Section 2-A(2) of the Act after the said amendment has come into force, the limitation of three years prescribed under Section 2-A(3) of the Act would necessarily apply. As such, there is no infirmity in the decision-making process of the Labour Court in refusing to entertain the application made by the Petitioner has time barred. This view is supported by the decisions of this Court in the following cases:-

(i) ITC Infotech India Ltd. v. Venkataramana Uppada (Order dated 03.03.2016 in W.P. No. 27510 of 2015 passed by the High Court of Karnataka)

(ii) Management of Ashok Leyland v. Presiding Officer, Labour Court (Order dated 13.04.2016 in W.P. Nos. 9640 and 9641 of 2016 passed by this Court)

(iii) Ravi Kumar v. Management, Tamil Nadu State Road Transport Corporation (Order dated 11.04.2017 in W.P. (MD) No. 4269 of 2017 passed by the Madurai Bench of this Court)

(iv) K. Settu v. Assistant Engineer, Tamil Nadu Electricity Board (Order dated 20.09.2019 in W.P. No. 8413 of 2019 passed by this Court)

5. A feeble attempt is made on behalf of the Petitioner to suggest that the period of conciliation must be excluded while computing the limitation. It is, no doubt, true that Section 2-A(2) of the Act contemplates such application to be made to the Labour Court after the expiry of 45 days from the date of application to the Conciliation Officer is made. However, it does not require that the conciliation proceedings should have been completed before making that application under Section 2-A(2) of the Act. The words in Section 2-A(3) of the Act are clear enough that the limitation has to be reckoned on the expiry of three years from the date of termination. The Petitioner in the instant case had made the application for conciliation on 12.04.2017 which had also concluded on 27.06.2017, but the Petitioner had not approached the Labour Court after 45 days either from 12.04.2017 or even from 27.06.2017. As such, the contentions made on behalf of the Petitioner cannot be countenanced."

(see also Kandasamy Spinning Mills Private Ltd. vs S. Palanisamy and Ors. MANU/RN/6831/2019)

Reverting the facts of the present case, and taking into the consideration as provided in section 2A (2) read with section 2A(3) of the Act and the law laid down by the various Hon'ble High Courts as stated hereinabove, as in the present case the services of the employee/workman have been terminated on 28.05.2015; and he has filed the present case on 10.09.2018 on the basis of reasoning as given by him in his claim petition is not maintainable, being barred by the provisions as provided u/s 2A(3) of the Act i.e. filed after three years, so the present case is liable to be dismissed.

Accordingly, the same stands dismissed; and the workman is not entitled for any relief.

Award as above.

LUCKNOW. Justice ANIL KUMAR, Presiding Officer

04th March, 2024.

नई दिल्ली, 21 मार्च, 2024

का.आ. 593.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय **महाप्रबंधक, मेसर्स हिन्दुस्तान एरोनाटिक्स लिमिटेड, कोरवा डिवीजन, अमेठी,**के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री नन्दलाल, कामगार, द्वारा- महामंत्री, हिन्द मजदूर सभा उत्तर प्रदेश, आर्यनगर, लखनऊ,** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय- लखनऊ पंचाट(संदर्भ संख्या 73/2014) को जैसा कि अनुलग्नक में दिखाया गया है**, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19/03/2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-52आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 21st March, 2024

S.O. 593.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 73/2014**) of the **Central Government Industrial Tribunal cum Labour Court –Lucknow,** as shown in the Annexure, in the Industrial dispute between the employers in relation **The General Manager, M/s Hindustan Aeronautics Ltd., Korwa Division, Amethi,** and **Shri Nandlal, Worker, through- The General Secretary, Hind Mazdoor Sabha Uttar Pradesh, Arya Nagar, Lucknow,** which was received along with soft copy of the award by the Central Government on **19/03/2024.**

[No. L-42025/07/2024-52-IR(DU)]

दिलीप कुमार, अवर सचिव

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 73/2014

BETWEEN

श्री नन्दलाल पुत्र श्री राम पियारे ग्राम उलरा पोस्ट चन्दौकी, जिला अमेठी (पूर्व जिला सुल्तानपुर) द्वारा श्री उमाशंकर मिश्र, महामंत्री, हिन्द मजदूर सभा उत्तर प्रदेश

25/26 यूनियन भवन, आर्यनगर, लखनऊ।

AND

मेसर्स हिन्दुस्तान एरोनाटिक्स लि०. कोरवा डिवीजन, अमेठी

जिला अमेठी (पूर्व जिला सुल्तानपुर) द्वारा महाप्रवन्धक

AWARD

On 16.12.2014 the claimant/workman has filed the present industrial dispute as per the provisions of Section 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

The claimant in his statement of claim has submitted that he was appointed as casual helper on 21.12.1985 with respondent; however, his services have been terminated without any notice or notice pay in lieu thereof w.e.f. 01.06.1998.

Accordingly, the workman has prayed for following relief:

"क. यह कि प्रार्थी को बिना किसी लिखित आदेश, बिना किसी पूर्व सूचना, कारण, आरोपपत्र और बचाव का कोई अवसर प्रदान किये दिनांक 01-06-1988 से सेवा से प्रथक / बंचित किया जाना अनुचित और अवैधानिक घोषित करते हुए प्रार्थी को सवेतन अटूट सेवा में बहाल किया।

ख. यह कि प्रार्थी को बेरोजगारी की अवधि का पूरा पूरा वेतन और अन्य हितलाम जो उसे निरन्तर सेवा में बने रहने पर प्राप्त होते, दिलाया जाय।

ग. यह कि प्रार्थी को वाद संचालन का पूरा पूरा ब्यय और अन्य हितलाभ जो माननीय संराधन अधिकारी उचित समझें दिलाया जाय।"

On 30.03.2016, respondent filed written statement; to which claimant filed rejoinder on 19.06.2017.

Sri Adarsh Jagdhari, learned counsel for respondent raised an objection that present industrial dispute is not maintainable as per the provisions of section 2A (3) of the Industrial Disputes Act, 1947.

Sri Adarsh Jagdhari, learned counsel for respondent submitted that aggrieved by alleged impugned action by which the services of the applicant was terminated/retrenched, he has approached this Tribunal by invoking the provisions of Section 2A of the Act read with section 2A (3) of the Act, so, in view of provisions as provided in section 2A (3) of the Act, as period of limitation is three years i.e. fixed period of limitation, thus, taking into consideration the provisions of section 2A(3) of the Act, present claim petition filed by the applicant on 16.12.2014 allegedly aggrieved by the order of termination/retrenchment dated 01.06.1988 is totally illegal and arbitrary and is barred by period of limitation as provided in the section 2A(3) of the Act.

I have heard learned counsel for parties and gone through the record.

Now the core question to be considered is that in view of the facts which are stated hereinabove, as admittedly the services of applicant was terminated on 01.06.1988 and thereafter he has filed the present case before this Tribunal u/s 2A of the Act on 16.12.2014, is maintainable or barred by the period of limitation as provided u/s 2A(3)?

Hon'ble the Karnataka High Court in ***ITC Infotech India Ltd. vs. Venkataramana Uppada ILR 2016 Karnataka 3041*** has held as under:

"9. Section 2A of the I.D. Act enables the individual workman to raise a dispute connected with or arising out of his discharge, dismissal, retrenchment or otherwise termination of his services by his employer and by legal fiction it would constitute "Industrial Dispute". No other type of dispute regarding an individual workman is contemplated by Section 2A. After the enactment of Section 2A, it is not necessary that a dispute relating to the discharge, dismissal, retrenchment or otherwise termination of service of a workman must be sponsored by a trade union or a substantial number of workman. In other words, even if it is not sponsored by a trade union or a substantial number of workman, such a dispute will be deemed to be an industrial dispute. Section 2A of the ID Act reads as under:

"2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute -

"(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Notwithstanding anything contained in Section 10, any such workman as is specified in sub-Section(1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-Section(2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section(1)."

10. By Act 24 of 2010, Section 2A was renumbered as sub-Section(1) and by same Act i.e., Act 24 of 2010 sub-Section (2) and (3) came to be inserted after Section 2A(1) of the I.D. Act. The said amendment Act came into effect on and from 15th September, 2010. In the absence of any specific provision to the contrary Act 24 of 2010 is to be held operative prospectively.

11. The effect of amendment is that any workman who has been discharged, dismissed, retrenched or terminated as specified in sub-section (1) of Section 2A may make an application directly to the Labour Court or Tribunal for adjudication of his individual dispute after the expiry of 45 days from the date he has made an application to the conciliation officer of the appropriate Government for conciliation of the dispute. Sub-Section (3) of Section 2A lays down the time limit for making such application to Labour Court or Tribunal. It provides that such application to the Labour Court or Tribunal for adjudication of the dispute shall be made before the expiry of three years from the date of discharge, dismissal and retrenchment or otherwise termination of service as specified in subSection(1).

12. A bare reading of above provision would indicate that a dispute covered under sub-Section(1) can be agitated or questioned by a workman by making an application directly to the Labour Court or Tribunal for adjudication of such dispute and such application should be filed before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service. In other words, the right conferred under Section 2A would lapse immediately preceding the date of expiry of three years of the date of dismissal, discharge etc. Sub-Section (3) of Section 2A would operate independently. The right available to the workman under Section 2A is not withstanding anything contained in Section 10 of the ID Act.

13. Thus, question which would arise for consideration in the instant case is; Whether dispute raised beyond three years from the date of discharge, dismissal or retrenchment can be entertained by the Labour Court or Tribunal by condoning the delay if any in raising the dispute or filing a claim petition or in other words, if an application for condonation of delay under Section 5 of the Limitation Act is filed, would it be maintainable and such delay can be condoned?

14. Prior to incorporation of Section 2A a workman had to necessarily depend upon the trade unions to espouse his cause for seeking reference under Section 10(1)(c) of the I.D. Act. The incorporation of Section 2A enabled the workman to approach the Labour Court or Tribunal directly and prevented the mischief of unreasonable delay occasioning on account of reference not being referred to by the appropriate Government under Section 10(1)(c) of the Act.

15. Section 10(4A) of the I.D. Act introduced by Karnataka Amendment Act 5 of 1988 enables an individual workman to challenge a termination order by directly applying to the Labour Court within six months from the date of communication of such order of termination.

16. The period of limitation for filing a petition before the Labour Court is six months from the date of communication of such order. A Division Bench of this Court has held in KSRTC Vs KHALEEL AHMED AND ANR reported in ILR 2002 (3) Kar 3827 that the period of six months prescribed under Section 10(4A) cannot be extended. It has been held by the Division Bench as under:

"23. It seems quite clear to us that the State Legislature has incorporated sub-Section (4A) in Section 10 of the Act to provide a more expeditious remedy to the workman enabling him to redress his grievances without undergoing the ordeal of approaching any Labour Union and without approaching the State Government for referring his case to the Labour Court. Therefore, the remedy provided under sub-Section (4-A) is a remedy alternative to what is provided under sub-Section (1) of Section 10 of the Act. But the right created under the State Amendment is coupled with a condition that individual workman has to prefer application before the Labour Court within the time frame of six months fixed by the legislature. It is a statutory condition precedent for exercise of the right and availment of remedy under sub-Section (4-A) of Section 10 of the Act. Therefore, it has to be held that if an application is filed beyond the period of 6 months as prescribed under the above sub-Section, then it will be incumbent on the part of the Labour Court not to entertain such an application since the condition does not only bars the special remedy but it also strikes at the jurisdiction of the Labour Court to entertain such an application. Such an interpretation is in consonance with the general rule of interpretation of statute. Such construction will not also in any way prejudice the right of a workman to get his dispute resolved by a reference under sub-Section 10(1) of the Act provided the dispute sought to be raised do not become stale because of his inaction as held by the Supreme Court in the cases of Balbir Singh Vs Punjab Roadways, Indian Iron and Steel Co. Ltd., Vs Prahlad Singh and Telecom District Manager Vs A.A. Angali".

(emphasis supplied)

17. In EXECUTIVE ENGINEER AND OTHERS VS LOKESH REDDY AND OTHERS reported in MANU/KA/0190/2003 : 2003 (3) LLJ 662 the point which came up for consideration was whether the period of limitation provided under Section 10(4A) of the Act is directory or mandatory and it came to be held that it was mandatory. It has been held as under:

"40. In view of the discussion made so far, we respectfully disagree with the view taken by the learned single judge in the present matters in holding the period of limitation provided under Section 10(4-A) of the Act as directory and not mandatory and affirm the view taken in the case of Khaleel Ahmed (supra), which has already clarified the said position of law holding the period of limitation in Section 10(4-A) as mandatory. So, the view taken by the Labour Court and affirmed by the learned single judge in the matters relating to period of limitation provided under Section 10(4-A) of the Act, being contrary to the Division Bench decision of this Court in the Case of Khaleel Ahmed (Supra) cannot be sustained and consequently, the impugned awards in allowing the applications filed after about six years (and not within six months) under Section 10(4-A) of the Act should have been set aside by the learned single judge. Since that was not done by the learned single judge in the impugned order, our interference is required".

18. As to whether the plea of limitation though not raised, is required to be considered by the Labour Court or not while adjudicating a claim petition filed under Section 10(4A), came up for consideration before the Division Bench in SMT. RUKMINIBAI AND OTHERS VS THE DIVISIONAL CONTROLLER, NEKRTC, BIDAR DIVISION, BY ITS CHIEF LAW OFFICER reported in ILR 2013 Kar 1024 and held that Section 3 of the Limitation Act 1963, is

peremptory in nature and imposing a duty on the Court to dismiss the applications which are barred by limitation even if the plea of limitation is not raised. It has been held as under:

"9. Section 3 of the Limitation Act, 1963, is peremptory in nature. It imposes a duty on the Court to dismiss the applications, which are barred by limitation even if the plea of limitation is not raised. If the claim petition is barred by time, the Court or an adjudicating authority has no power or authority to entertain such an application and decide it on merits. As stated, even in the absence of such a plea by the respondent or opponent, the Court or the authority must dismiss such an application if it is satisfied that the same is barred by limitation."

19. Keeping the above principles in mind, a reading of Section 2A(3) would lead to an irresistible conclusion that time stipulated for invoking the jurisdiction of the Labour Court or the Tribunal as the case may be, has to be necessarily "before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section (1)." Time limit for making an application to the Labour Court stipulated in sub-Section (3) of Section 2A does not appear to have a bearing to the provisions of sub-Section (2) of Section 2A. In any event right conferred under Section 2A would lapse immediately preceding the date of expiry of three years from the date of dismissal, discharge etc.,. In other words, the limitation of three years prescribed under sub-Section (3) of Section 2A being mandatory, same cannot be condoned by taking recourse to Section 5 of the Limitation Act, 1963 which has no application to the provisions of Industrial Disputes Act, 1947.

20. It is well settled principle that if an act is required to be performed within a specified time, the same would primarily be mandatory. It has been held in the case of NAZIRUDDIN VS SITARAM AGARWAL reported in AIR 2003 SCW 908 to the following effect:

"The Courts jurisdiction to interpret a statute can be invoked when the same is ambiguous. It is well known that in a given case, the Court can iron out the fabric but it cannot change the texture of the fabric. It cannot enlarge the scope of legislation or intention when the language of provision is plain and unambiguous. It cannot add or subtract the words to a statute or read something into it which is not there. It cannot re-write or recast legislation. It is also necessary to determine that there exists a presumption that the legislature has not used any superfluous words. It is well settled that the real intention of legislature must be gathered from the language used."

21. Thus, in the background of the dicta of the Apex Court in NAZIRUDDIN's case referred to supra, when Section 2A is perused, it would indicate that if the legislature really intended that the period of limitation provided in sub-Section (3) of Section 2A was to be construed as directory, then it would not have prescribed the limitation of three years and it would have used the words "at any time" instead of using the words "before the expiry of three years". Though the words at any time' is found in Section 10(1), same is conspicuously absent in sub-Section(3) of Section 2A which would clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-Section (3) of Section 2A and as such legislature did not employ the words at any time' in the said provision as found in Section 10(1) and in its place, it has specifically incorporated the words before the expiry of three years'. Hence, to interpret the period of limitation found in sub-Section (3) of Section 2A as directory and not mandatory would amount to adding something which is not provided in the provision by the legislature or it would amount to doing violence to the provision, if such interpretation is sought to be made.

22. In the background of aforestated discussion, when the facts of hand are examined, it would clearly indicate that on the services of the employee -respondent being terminated by the Management by letter of termination dated 11.02.2009, a reference was sought under Section 10(1)(c) (d) of the I.D. Act by the respondent by submitting a representation to Assistant Labour Commissioner, Bangalore on 06.09.2012. The appropriate Government made a reference by order dated 03.06.2013 - Annexure-N and pursuant to the same, proceedings was commenced before the Labour Court, Bengaluru in Reference No. 16/2013. After appearance of the respondent - employee before the Labour Court and before filing of the claim petition, a memo came to be filed on 07.11.2013 (part of Annexure-M) seeking withdrawal of the reference and permission to file a fresh application under Section 2A(2) of the I.D. Act. The said memo was partially accepted by the Labour Court as could be seen from the order dated 07.11.2013 (part of Annexure-M) passed on the said memo. It reads as under:

"First Party present and filed memo stating that the present reference is not maintainable and he intent's to file fresh application under Section 2A(2) of the I.D. Act.

Heard the respondent counsel. Perused the memo filed by the first party -workman for the reasons mentioned in memo the reference is hereby dismissed and case is closed."

And Hon'ble Rajasthan High court in the case of ***Pankaj Swami vs. Rajasthan State Road Transport Corporation & ors. MANU/RH/1788/2019*** after taking into consideration the provisions of sedation 2A(2) & 2A(3) of the Act held as under:

"The provisions are explicit, wherein the workman can approach the Labour Court for adjudication of the dispute in case of discharge, dismissal, retrenchment etc., however, sub-section (3) provides that the application should be made to the Labour Court before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified.

8. The submission made by learned Counsel for the petitioner that as the cause of action arose to the petitioner prior to introduction of the provision of limitation by sub-section (3) the same would have no application is concerned, the submission made is fallacious, inasmuch as, the provision under which the application has been filed by the petitioner i.e. section 2-A(2) of the Act, itself was introduced by the amendment Act of 2010 alongwith the limitation therein and therefore, the provision of limitation which was introduced in the year 2010 alongwith the main provision providing for the limitation would apply with all force and the submission that the same would have no application to the cause of action, which arose prior to 2007, has no basis.

The submissions as made, if accepted, would result in circumstances where if the cause of action has arisen post 2010, the same would be barred, whereas the causes, which arose prior to 2010 like in the year 2007 in the present case and the application is filed after 7 years, the same would never become barred by limitation, such a result is legally untenable.

9. The submission made by learned Counsel for the petitioner that as the petitioner had approached the Conciliation Officer and had raised the dispute before him, where there was no limitation and the petitioner approached the Labour Court only as per the directions of the Conciliation Officer the claim could not be rejected by barred by limitation also does not advance the cause of the petitioner, inasmuch as, the petitioner could have taken advantage of the said position, if the Conciliation Officer had sent a failure report to the appropriate Government who in turn had referred the dispute to the Labour Court. Merely because the Conciliation Officer suggested approaching the Labour Court, which suggestion was accepted by the petitioner, cannot be termed as a reference under section 10 of the Act to the Labour Court.

10. In view of the above discussion in so far as the rejection of the claim of the petitioner by the Labour Court being barred by limitation is concerned, the same cannot be faulted."

And in the case of ***Parthasarathy vs. Souther Pins and Products Pvt. Ltd. and Ors. MANU/TN/6691/2020*** Hon'ble the High Court of Madras has held as under:

"Inasmuch as the notice of termination of the Petitioner in the present case has been made on 06.10.2014 under Section 2-A(2) of the Act after the said amendment has come into force, the limitation of three years prescribed under Section 2-A(3) of the Act would necessarily apply. As such, there is no infirmity in the decision-making process of the Labour Court in refusing to entertain the application made by the Petitioner has time barred. This view is supported by the decisions of this Court in the following cases:-

(i) ITC Infotech India Ltd. v. Venkataramana Uppada (Order dated 03.03.2016 in W.P. No. 27510 of 2015 passed by the High Court of Karnataka)

(ii) Management of Ashok Leyland v. Presiding Officer, Labour Court (Order dated 13.04.2016 in W.P. Nos. 9640 and 9641 of 2016 passed by this Court)

(iii) Ravi Kumar v. Management, Tamil Nadu State Road Transport Corporation (Order dated 11.04.2017 in W.P. (MD) No. 4269 of 2017 passed by the Madurai Bench of this Court)

(iv) K. Settu v. Assistant Engineer, Tamil Nadu Electricity Board (Order dated 20.09.2019 in W.P. No. 8413 of 2019 passed by this Court)

5. A feeble attempt is made on behalf of the Petitioner to suggest that the period of conciliation must be excluded while computing the limitation. It is, no doubt, true that Section 2-A(2) of the Act contemplates such application to be made to the Labour Court after the expiry of 45 days from the date of application to the Conciliation Officer is made. However, it does not require that the conciliation proceedings should have been completed before making that application under Section 2-A(2) of the Act. The words in Section 2-A(3) of the Act are clear enough that the limitation has to be reckoned on the expiry of three years from the date of termination. The Petitioner in the instant case had made the application for conciliation on 12.04.2017 which had also concluded on 27.06.2017, but the Petitioner had not approached the Labour Court after 45 days either from 12.04.2017 or even from 27.06.2017. As such, the contentions made on behalf of the Petitioner cannot be countenanced."

(see also Kandasamy Spinning Mills Private Ltd. vs S. Palanisamy and Ors. MANU/RN/6831/2019)

reverting the facts of the present case, and taking into the consideration as provided in section 2A (2) read with section 2A(3) of the Act and the law laid down by the various Hon'ble High Courts as stated hereinabove, as in the present case the services of the employee/workman have been terminated on 01.06.1988; and he has filed the present case on 16.12.2014 on the basis of reasoning as given by him in his claim petition is not maintainable, being barred by the provisions as provided u/s 2A(3) of the Act i.e. filed after three years, so the present case is liable to be dismissed.

Accordingly, the same stands dismissed; and the workman is not entitled for any relief.

Award as above.

LUCKNOW. Justice ANIL KUMAR, Presiding Officer

04th March, 2024.

नई दिल्ली, 21 मार्च, 2024

का.आ. 594.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय **मुख्य महाप्रबंधक, बीएसएनएल, यूपी (पूर्व) सर्कल, हजरतगंज। महात्मा गांधी मार्ग, लखनऊ; उप मंडल अभियंता (कानूनी), बीएसएनएल, कार्यालय दूरसंचार जिला. प्रबंधक, गोंडा (यूपी) ,**के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री राजेंद्र किशोर, कामगार,** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-लखनऊ पंचाट (संदर्भ संख्या 15/2007) को जैसा कि अनुलग्नक में दिखाया गया है**, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 19/03/2024 को प्राप्त हुआ था।

[सं. एल-40012/102/2006-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 21st March, 2024

S.O. 594.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 15/2007**) of the **Central Government Industrial Tribunal cum Labour Court –Lucknow,** as shown in the Annexure, in the Industrial dispute between the employers in relation **The Chief General Manager, BSNL, UP (East) Circle, Hazratganj. Mahatma Gandhi Marg, Lucknow; The Sub Divisional Engineer (Legal), BSNL, O/o Telecom Distt. Manager, Gonda (UP),** and **Shri Rajendra Kishore, Worker,** which was received along with soft copy of the award by the Central Government on **19/03/2024.**

[No. L-40012/102/2006-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 15/2007

No. L-40012/102/2006-IR(DU) dated 25.04.2007

BETWEEN

4. Shri Rajendra Kishore S/o Shri Vishwnath Sahu

Village & Post Office - Bahai, RaeBareli (Distt.) -

AND

1. The Chief General Manager, BSNL

UP (East) Circle, Hazratganj. Mahatma Gandhi Marg. Lucknow

2. The Sub Divisional Engineer (Legal),

BSNL, O/o Telecom Distt. Manager, GONDA (UP)-

AWARD

By order No. L-40012/102/2006-IR(DU) dated 25.04.2007 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> *"Whether the action of the management of the Chief General Manager, Telecom, BSNL, Gonda/Lucknow in terminating the services of their workman Shri Rajendra Kishor, w.e.f. 3.7.2001 is legal and justified? If not, to what relief the workman is entitled to?"*

Accordingly, an industrial dispute No. 15/2007, registered on 06.06.2007 before this Tribunal

On 01.06.2007, on behalf of claimant, statement of claim was filed, inter alia stating therein that claimant/Rajendra Kishore was appointed in the respondent establishment on 03.07.1998 as daily wager and when he represented for regularization vide dated 12.02.2001, his services have been terminated orally without assigning any reason or giving any notice or notice pay in lieu thereof.

Thus, prayer made by claimant in his claim statement is that in view of the facts stated in para 1 to 21 of the claim petition, his oral termination may be set aside and respondent may be directed to reinstate claimant/Rajendra Kishore with all consequential benefits.

On 20.07.2007, behalf of the respondent, written statement has been filed; wherein it has been submitted that the claimant was never appointed against any post, in any capacity to do office work with the opposite parties, so, there does not arise any question of terminating his services of compliance of provisions of section 25 F of the Act.

On 31.08.2007, the claimant filed rejoinder.

The parties adduced documentary evidence in support of their respective claim.

On 07.04.2010, claimant filed evidence on affidavit; and was cross-examined on 31.12.2010.

Respondent filed its evidence on affidavit on 14.05.2011; and management witness was cross-examined on 06.02.2012.

On 31.01.2024, an application has been moved on behalf of applicant, supported by an affidavit, , the same is quoted hereunder:

"धारा-3 यह कि प्रार्थी/वादी आर्थिक अभाव एंव खराब स्वास्थ के कारण वाद उपरोक्त की पैरवी करने में असमर्थ है।

अत: श्रीमान जी से प्रार्थना है कि न्याय के उचित हित मे विपक्षी से प्रार्थी को हुए आर्थिक नुकसान की भरपाई क्षति पूर्ति सहित वाद उपरोक्त को समाप्त किये जाने की कृपा की जाए"

Authorized representative of the workman on the basis of said application submits that he does not want to press the present industrial dispute and the same may be dismissed as not pressed.

Accordingly, in view of the above said facts, the claim of workman is dismissed as not pressed; and workmen are not entitled for any relief.

The reference under adjudication is answered accordingly.

Award as above.

Lucknow. Justice ANIL KUMAR, Presiding Officer

05th March, 2024

नई दिल्ली, 22 मार्च, 2024

का.आ. 595.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **अध्यक्ष एवं प्रबंध निदेशक, इलेक्ट्रॉनिक कॉर्पोरेशन ऑफ इंडिया लिमिटेड, कुशाईगुडा, हैदराबाद** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री ई. यदागिरी, कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-हैदराबाद पंचाट (संदर्भ संख्या 48/2010) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21.03.2024 को प्राप्त हुआ था।

[सं. एल-42025-07-2024-53-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 22nd March, 2024

S.O. 595.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref.No. 48/2010) of the **Central Government Industrial Tribunal cum Labour Court – Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Chiarman & Managing Director, Electronic Corporation of India Ltd., Kushaiguda, Hyderabad, and Shri**

E. Yadagiri, Worker, which was received along with soft copy of the award by the Central Government on 21.03.2024.

[No. L-42025-07-2024-53-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 11th day of March, 2024

INDUSTRIAL DISPUTE LC No. 48/2010

Between:

Sri E. Yadagiri,

S/o Chinna,

R/o H.No.3-99, Cheeryal Village,

Keesara Mandal, R.R. Dist. ..….Petitioner

AND

The Chiarman & Managing Director,

Electronic Corporation of India Ltd.,

Kushaiguda,

Hyderabad … Respondent

Appearances:

For the Petitioner : M/s. A. Jeevan Kumar & N. Ramesh, Advocates

For the Respondent: M/s. P. Nageswar Sree & Ch. Venkata Raju, Advocates

AWARD

Sri E. Yadagiri has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents seeking for reinstatement into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. Respondent filed counter.

3. Case is fixed for Petitioner's evidence. But since last many dates of hearing Petitioner is absent. Despite sufficient opportunity granted to him Petitioner did not adduce his evidence in support of his claim This LC pertains to the year 2010 and record reveals that this case is fixed for Petitioner's evidence since 22.2.2020. Sufficient number of opportunities were already granted to the Petitioner to substantiate his claim petition but he failed to avail it. Opportunity for evidence closed. Perused the record. The claim of the Petitioner has not been substantiated by any evidence. Therefore, a 'No Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 11th day of March, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 22 मार्च, 2024

का.आ. 596.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स गुप्त जांच एवं सुरक्षा सेवाएँ, एस.डी. रोड, ऑप. ताज महल होटल, सिकंदराबाद,** के प्रबंधतंत्र के संबद्ध नियोजकों और **महासचिव, टी.एस. संविदा श्रमिक संघ, बीएमएस कार्यालय, जवाहर नगर, हैदराबाद,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-हैदराबाद पंचाट (संदर्भ संख्या 9/2022) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21.03.2024 को प्राप्त हुआ था।

[सं. एल-42011/158/2021-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 22nd March, 2024

S.O. 596.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 9/2022) of the **Central Government Industrial Tribunal cum Labour Court – Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s. Secret Investigation & Security Services, S.D. Road, Opp. Taj Mahal Hotel, Secunderabad, and The General Secretary, T.S. Contract Labour Union, BMS Office, Jawahar Nagar , Hyderabad ,** which was received along with soft copy of the award by the Central Government on 21.03.2024.

[No. L-42011/158/2021-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 20th day of February, 2024

INDUSTRIAL DISPUTE No. 9/2022

Between:

The General Secretary,
T.S. Contract Labour Union, BMS Office,
TRT-141, Jawahar Nagar, Street No.9,
Hyderabad - 500 020 .....Petitioner

AND

M/s. Secret Investigation & Security Services
Room No.10, 6th Floor, Srinath Commercial Complex,
S.D. Road, Opp. Tajmahal Hotel,
Secunderabad – 500 003. … Respondent

Appearances:

For the Petitioner : None

For the Respondent: Representative

AWARD

The Government of India, Ministry of Labour by its order No. L-42011/158/2021-IR(DU) dated 6.12.2021 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Secret Investigation & Security Services and their workman. The reference is,

SCHEDULE

"Whether the action of the Management of M/s. Secret Investigation and Security Services, Hyderabad, in the office of the Regional Director, South East Region, Ministry of Corporate Affairs in terminating the services of 3 contract workers namely Sh. Jagan, Sh. Srinivas and Sh. Hassan is proper, legal and justified? If not, to what relief these contract workers are entitled and what directions, if any, are necessary in the matter?"

The reference is numbered in this Tribunal as I.D. No. 9/2022 and notices were issued to the parties concerned.

2. Petitioner absent on the date fixed for filing of claim statement and documents. Record reveals that notice served on Petitioner but none present on behalf of Petitioner. In view of non-appearance and non-filing of claim statement, the case is dismissed and a 'No Claim' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant, corrected by me on this the 20th day of February, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 22 मार्च, 2024

का.आ. 597.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (35/2013) प्रकाशित करती है।

[सं. एल-12012/75/2012-आईआर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 22nd March, 2024

S.O. 597.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 35/2013*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Punjab & Sind Bank and their workmen.

[No. L-12012/75/2012-IR(B-I)]

SALONI**,** Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 35/2013

Ref. No. L-12012/75/2012- IR(B-11) dated: 11.03.2013

BETWEEN

Sh. Chayan Ghosh Chowdhury. Head Cashier, Punjab & Sind Bank,

Hazaratganj C/o UPBEU, Awadh Trade Centre, Lalbagh, Lucknow.

AND

1. The General Manager Punjab & Sind Bank 21 Rajinder Place. New Delhi.
2. The Chief Manager, Punjab & Sind Bank, Hazaratganj Branch Lucknow

AWARD

By order No. L-12012/75/2012- IR(B-11) dated: 11.03.2013 the present industrial dispute has been referred for adjudication to this CGIT-cum-Labour Court, Lucknow in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> *"Whether the action of the Managemeent Punjah & Sind Bank in not making the payment of special allowances of Rs. 780 to Shri Chayan Ghosh Chowdhury, Head Cashier w.e. f.01/05/2010 is legal and justified? What relief the workman is entitled to?"*

In response to reference on 07.06.2013, applicant has filed the present industrial dispute before this Tribunal.

Thereafter pleadings have been exchanged between the parties.

Looking into facts and circumstances of the case, on 18.01.2023 an order was passed which is quoted herein below:

> *"Present workman, Chayan Ghosh Chowdhury, in person, Sri Yash Deep Srivastava for Bank.*
>
> *By an order dated 11.03.2013 following reference has been made to this tribunal:*
>
> > *"Whether the action of the Management Punjab & Sind Bank in not making the payment of special allowances of Rs. 780 to Shri Chayan Ghosh Chowdhury, Head Cashier w.e.f. 01/05/2010 is legal and justified? What relief the workman is entitled to?"*
>
> *In pursuance to the above said reference, present ID case No. 35/2013, Chayan Ghosh Chowdhury vs Punjab & Sindh Bank has been filed and in brief the prayer which has been made by the applicant is to the effect that he is entitled to special pay of Rs. 280 that is difference of amount payable of actual paid since May, 2010 to March, 2011; and the total amount which is claimed by him in the present ID case is Rs. 4392.36.*
>
> *Today the matter is fixed for the cross-examination of the workman however looking into the controversy which is involved in the present case it would be appropriate that the matter may be referred to the appropriate authority ie. Zonal Manager, Punjab & Sindh Bank for mediation/conciliation and take an appropriate decision in regard to the payment of said amount.*
>
> *As agreed between the parties for the purpose of mediation/conciliation in the matter the workman shall go to the opposite party on 02.02.2023."*

Sri Chayan Gosh Chaudhary, complainant/workman submits that in view of the order passed by this Tribunal on 02.02.2023 an order was passed by Chief Manager, Zonal Office, Lucknow, copy of which was produced before Tribunal, reads as under:

> *"As per the directions of the Hon'ble Presiding Officer, CGIT Lucknow, a meeting was held today at Zonal Office Lucknow at 04:00 PM. After discussion the Bank Management agreed to pay the arrears of head cashier allowance to Sh Chayan Ghosh Chowdhury from May 2010 to March 2011 amounting to Rs.4392.36 (Rupees Four Thousand three hundred ninety two and paise thirty six only). Further, it is also agreed to pay*

compound interest on the said amount @ 10% per annum subject to the condition that all the prayers mentioned in the claim statement of the above said case shall stand withdrawn."

Accordingly, he submits that now there is no grievance on the part of applicant, to be adjudicated as per the reference dated 11.03.2013, so, the present industrial dispute may be disposed of in terms of said order.

Sri Vishwadeep Srivastava, authorized representative of the management/Bank has not objection in this regard.

For the foregoing reasons, the reference is disposed of in terms of observations made hereinabove.

The reference under adjudication is answered accordingly.

Award as above.

Lucknow. Justice ANIL KUMAR, Presiding Officer

05th March, 2024

Let two copies of this award be sent to the Ministry for publication.

नई दिल्ली, 26 मार्च, 2024

का.आ. 598.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार नार्दन रेलवे के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (02/2021) प्रकाशित करती है।

[सं. एल-12025/01/2024-आईआर (बी-I)-139]

सलोनी, उप निदेशक

New Delhi, the 26th March, 2024

S.O. 598.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.02/2021*)* of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Northern Railway__ and their workmen.

[No. L-12025/01/2024-IR(B-I)-139]

SALONI**,** Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 02 of 2021

BETWEEN

श्री कृष्ण कुमार पाण्डेय पुत्र श्री कमलेश कुमार, 570/244 आजाद नगर, आलमबाग, लखनऊ।

AND

1. **जनरल मैनेजर नार्दन रेलवे बड़ौदा हाउस, नई दिल्ली** 110001

2. **मंडल रेल प्रबन्धक उत्तर रेलवे हजरतगंज, लखनऊ मण्डल । 226001**

3. **मो० शाहिद फैजान अहमद एण्ड ब्रदर्स 654 बेगम का मकबरा फैजाबाद जनपद-फैजाबाद।**

AWARD

On 18.01.2021 claimant/workman has field the ID case No. 02/2021 as per the provisions of Section 2A (2) of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

On 20.07.2021 on behalf of respondent No. 1 & 2 written statement has been filed in which in para 12 an objection was taken that claimant has approached this Tribunal after an inordinate delay of 12 years from the date of his alleged termination i.e. 25.11.2019, so, the same is liable to be dismissed, keeping in view the provisions of section 2A (3) of the Act.

On 03.08.2023 an application has been moved on behalf of application through its counsel inter alia requesting therein as under:

> *"4-* यह कि श्रामिक उपरोक्त वाद को *under provisions of section 2A(3) of I.D. Act, 1947* के अन्तर्गत कालबाधित है।
>
> *5-* यह कि श्रामिक उपरोक्त वाद को वापस लेना चाहता है।
>
> *6* यह कि श्रामिक उपरोक्त वाद को *section 10 I.D. Act, 1947* के अन्तर्गत क्षेत्रीय श्रमायुक्त लखनऊ के समक्ष अपना उपरोक्त वाद प्रस्तुत करेगा।
>
> अतः श्रीमान जी से प्रार्थना है कि प्रार्थी का उपरोक्त वाद इस आशय के साथ वापस करने की कृपा करें कि प्रार्थी क्षेत्रीय श्रमायुक्त *(*केन्द्रीय*)* लखनऊ के समक्ष प्रस्तुत कर सकें।*"*

Accordingly, claimant, Krishna Kumar Pandey who is present before this tribunal request that keeping in view the averment made in application dated 03.08.2023, relevant portion quoted hereinabove, present case may be dismissed.

Respondent has no objection.

For the foregoing reasons, the present claim petition filed by the workman u/s 2A (2) of the Act is dismissed as withdrawn, with liberty as prayed.

Award as above.

Lucknow. Justice ANIL KUMAR, Presiding Officer

04th March, 2024

नई दिल्ली, 26 मार्च, 2024

का.आ. 599.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प्रथमा ग्रामीण बैंक के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **लखनऊ** के पंचाट (66/2022) प्रकाशित करती है।

[सं. एल-12011/38/2022-आईआर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 26th March, 2024

S.O. 599.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 66/2022*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Prathama U.P. Gramin Bank and their workmen.

[No. L-12011/38/2022-IR(B-I)]

SALONI**,** Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 66/2022

Ref. No. L-12011/38/2022-IR(B-1) dated 02.12.2022

BETWEEN

The General Secretary, Joint Forum of Prathama U.P. Gramin Bank Officers Association and Uttar Pradesh Gramin Bank Employees Union, 3/105, Devipura-II, Krishna Nagar, BULANDSHAHR(U.P) - 203001

AND

The Chairman, Prathama U.P. Gramin Bank, Head Office, Ram Ganga Vihar Phase-II, Moradabad(U.P.) - 244001

AWARD

By order No. L-12011/38/2022-IR(B-1) dated 02.12.2022 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

> *"Whether the charter of demands raised by the joint forum of Prathama UP Gramin Bank Officers Association and Uttar Pradesh Gramin Bank Employees Union vide representation dated 15.11.2022 (copy enclosed as per Annexure 'Al') against the management of Prathama U.P. Gramin Bank is proper, legal & justified? If yes, what relief the joint forum of union is entitled to & to what extent?"*

Accordingly, an industrial dispute No. 66/2022 has been registered on 12.12.2022

From the perusal of record, the position which emerge out that till date the claimant/workman has not filed any statement of claim.

Moreover, as a matter of fact and record, neither workman nor its authorized representative has turned up before this Tribunal nor has filed any statement of claim in spite of repeated notices.

Findings & Conclusion:

Taking into consideration the fact that as till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 02.12.2022.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:

> *"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of ***M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164*** Hon'ble Allahabad High Court has held as under:

> *"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

And by the Hon'ble Allahabad High Court in the case of ***District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519****;* wherein it has been held as under:

"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Lucknow. Justice ANIL KUMAR, Presiding Officer

04th March, 2024

नई दिल्ली, 26 मार्च, 2024

का.आ. 600.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ़ इंदौर के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **जबलपुर** के पंचाट (06/2005) प्रकाशित करती है।

[सं. एल-12012/208/2004-आईआर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 26th March, 2024

S.O. 600.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 06/2005*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of Indore and their workmen.

[No. L-12012/208/2004-IR(B-I)]

SALONI**,** Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/06/2005

Present: P.K.Srivastava

H.J.S..(Retd)

Shri Munnuram Yadav,

S/o Binda Yadav,

E-9/8 MOG Lines,

Indore (M.P.)

Workman

Versus

The Dy. General Manager,

State Bank of Indore, Zonal Office,

163, Kanchan Bagh

Indore (M.P.)

Management

AWARD

(Passed on this 28th day of February-2024.)

As per letter dated 20/12/2004 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L12012/208/2004-IR(B-I) dt. 20/12/2004. The dispute under reference relates to:

"**Whether the action of the management of Deputy General Manager State Bank of Indore in dismissing Shri Mannuram Yadav S/o Shri Binda Yadav from service with effect from 01/09/1999 is justifies if not, to what relief the workman is entitled**.

After registering case on the basis of reference, notices were sent to the parties they appear and file their respective statements of claim and defence.

According to the workman, he was inducted in the service of management Bank as Security Guard on 22/08/1984 and was madepermanent on 07/08/1995. On 11/08/1998 when he was not on official duty, he was asked to park the private car of the Bank officer and it was taken by him to the workshop for repairs under the direction of the owner. The owner that is, the Bank Officer, fabricated a case that his car was stolen and the workman was alleged to have stolen the car. A formal chart sheet was served on the workman on which he filed his representation which was turned down and he was subjected to the disciplinary enquiry. According to the workman, the enquiry was conducted against basic principles of natural justice, he was not given full opportunity to defence his case. The Enquiry Officer submitted his enquiry report on which the disciplinary authority passed the order of dismissal from service ignoring the representation of the workman on enquiry report. The appellate authority also wrongly dismissed the document.

Case of the management in short, is that, when the workman was employed as the guard with the respondent Bank on 11/08/1998 at about 10:30 a.m. Shri R.C. Singhal, Assistant General Manager, reached the Zonal Office and after parking his car inside the main gate, handed over the keys to the workman for its proper parking outside the boundary wall. At about 4:30 p.m. when Mr. Sinhal checked up his car, it was found missing from the parking area. The workman was enquired into and their report regarding theft was registered with Police. Later on the next date. the car was found lying in the accidental condition near Damoh. The first information report regarding theft was enquired into, and the chart sheet was filed against the workman. This matter was reported to the higher authority. A charge sheet was issued to the workman and on finding his representation on the charge sheet not sufficient, the departmental enquiry was ordered against the workman. As it is the case of the management, the workman admitted the charges and he was found guilty of misconduct by the Enquiry Officer in his report. The workman was issued the show cause notice by disciplinary authority on the enquiry report and after finding his representation on the show cause not satisfactory, the punishment order dismissing him from service of management Bank was passed by disciplinary authority, appeal against this order was also dismissed.

On the basis of pleadings, **following issues** were framed whether the departmental enquiry is conducted is just legal and proper.

1-Whether the charges against the workman are proved from evidence in an enquiry proceeding.

2-Whether the punishment of dismissal of workman is legal and proper.

3-If not, what relief is the workman is entitled to.

Issue No. 1 was taken as preliminary issue and was decided after evidence vide order dated 14/07/2022 **holding the departmental enquiry conducted just legal and proper**. This order is the part of this award.

Parties were given opportunity to lead evidence on remaining issue.

I have heard argument of Advocate Shri Rakesh Sharma for workman and both the sides of written argument which is part of the record. I have gone through the record as well.

Issue No. 2

Charges against the workman are as follows: -

1. That on 11/08/1998 between 10:30 to 10:45 a.m. Shri R.C. Sinhal Assistant General Manager directed the workman to park his Maruti Car. The workman took away the car to some other place with an intention to commit theft of the car instead of parking the said car in the parking area.
2. That on the date, time and place as mention in charge No. 1 the workman took away the car at Bombay-Agra Highway and left it unattended, thus damaged the reputation of the Bank and property of the Bank officer.
3. That the workman wilfully absented himself without any intimation from 11/08/1998 till 02/11/1998.

Thus workman conducted gross and minor misconduct under Para 19.5 (D) and 19.5 (E) also under Para 19.7 (A) of the Bipartite Settlement.

Perusal of the enquiry paper filed and proved by management reveals that as it is the case of the management, the workman admitted the charges the enquiry proceedings dated 20/05/1999 require special mention in this respect.

Learned Counsel for workman has submitted that this statement of the workman should not be taken as admission of the charge because **firstly**, his statement was not recorded verbatim and **secondly** he has explained his this conduct in his representation on the enquiry report filed by him before the disciplinary authority wherein he has stated that this statement was taken from him under an impression that the matter will come to the ends if he admitted the charges and under an assurance that no major penalty awarded to him.

Learned Counsel for management has submitted that this is an after thought.

Even a confession of guilt made before an authority of Court may be retracted. What is to be determined in case of retracted admission is that whether the admission of charge an act of free will of the delinquent or not and whether it is true or not. I am of the considered view that the disciplinary authority should have enquired into this fact in these circumstances which was not done by him the same stand was taken by the delinquent before the appellate authority also chose to ignore this point.

The settled proposition of law with respect to prove of charge in a departmental enquiry is that it need not be proved beyond reasonable doubt as it is required in criminal trial. Since the workman admitted the charges, before the enquiry Officer. There was no occasion for the enquiry Officer to hold **otherwise hence on the basis of above discussion the charge against the workman is held proved on the basis of evidence collected during the enquiry.**

Issue No. 2 is answered accordingly.

Issue No. 3

Now, after decision of the preliminary issue no. 02, in the favour of the management, the submissions of the workman that the punishment imposed upon him is disproportionate and this Tribunal should interfere into it within the provisions providing under Section 11 A of the Industrial Disputes Act, 1947 is taken into account.In this regard, it is well settled that the this Court has ample power under section 11-A of the Industrial Disputes Act, 1947 to substitute a lesser punishment, taking into consideration the facts and circumstances of the case. Moreover, the principle of proportionality calls for interference of this Court into the punishment imposed by the management i.e. of removal in view of law in ***Joseph Solomon vs. Presiding Officer, Labour Court, U.P., Dehradun & another 2012 (134) FLR 424*.**

13. It is admitted proposition of law that the Court cannot sit in appeal or it cannot re-appreciate the evidence relied before Inquiry Officer; in as much as it cannot alter the order or punishment; however, the scope of invoking the powers given under Section 11 A of the Act, by the Labour Court is confined to the condition that the Court should interfere with the order of punishment when it is disproportionate with respect to the misconduct committed or it is harsh. Admittedly, in the instant case the workman was given charge sheet for committing misconduct of 'doing acts prejudicial to the interest of the bank' i.e. putting the bank's money to jeopardy, whereby making it difficult for recovery; and was penalized with punishment of compulsory retirement with superannuation benefits i.e. Pension and/or Provident Fund and Gratuity. Moreover, this Tribunal vide its order dated 27.01.2020has found that "the disciplinary enquiry was conducted in accordance with the principles of natural justice and the workman was afforded all reasonable opportunity to defend himself; and also it is held, in the preceding para, that the findings of the Enquiry Officer do not suffer with the vice of perversity.

14. Hon'ble Apex Court in *B.C. Chayurvedi v. Union of India, (1995) 6 SCC 749* while discussing about the scope of judicial review, in disciplinary matters, has observed as under:

> ***"The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mold the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, imposed appropriate punishment with cogent reasons in support thereof."***

In *DG, RPF vs. Sai Babu (2003) 4 SCC 331*, Hon'ble Apex Court has observed that:

> ***"6……. Normally, the punishment imposed by a disciplinary authority should not be disturbed by the High Court or a tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including the nature of charges proved against, the past conduct, penalty imposed earlier, the nature of***

duties assigned having due regard to their sensitiveness, exactness expected of an discipline required to be maintained, and the department/establishment which the delinquent person concerned works."

In *United Commercial Bank vs. P.C. Kakkar (2003) 4 SCC 364* Hon'ble Apex Court on review of a long line of cases and the principles of judicial review of administrative action under English law summarized the legal position in the following words:

"11. The common thread running through in all these decisions is that the court should not interfere with the administrators' decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is judicial review is limited to the deficiency in decision-making process and not the decision.

12. To put it differently, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof."

In *Union of India vs. S.S. Ahluwalia (2007) 7 SCC 257* Hon'ble Supreme Court reiterated the legal position as follows:

"8. …… The scope of judicial review in the matter of imposition of penalty as a result of disciplinary proceedings is very limited. The court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved."

In *State of Meghalaya v. Mecken Singh N. Marak (2008) 7 SCC 580* Hon'ble Supreme Court stated that:

"The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review.

15. Hon'ble Apex Court in *Administrator, UnionTerritory of Dadra and Nagar Haveli vs. Gulbhia M. Lad (2010) 2 SCC (L&S) 101* has observed that

"The legal position is fairly well settled that while exercising the power of judicial review, the High Court or a Tribunal cannot interfere with the discretion exercised by the disciplinary authority, and/or on appeal the appellate authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural irregularity or that would shock the conscience of the court/tribunal. The exercise of discretion in imposition of punishment by the disciplinary authority or appellate authority is dependent on host of factors such as gravity of misconduct, past conduct, the nature of duties assigned to the delinquent, responsibility of the position that the delinquent holds, previous penalty, if any, and the discipline required to be maintained in the department or establishment he works. Ordinarily the court or the tribunal would not substitute its opinion on reappraisal of facts.

17. Thus, the Bank being a financial institution dealing with the public money, the employees of the Bank are required to exhibit utmost honesty and integrity in day to day transaction/functioning. The act of dishonesty or fraud or misappropriation lowers down the reputation of Bank in public. The public loose their confidence in Bank, which affects Bank's business and finally the national economy.

Learned Counsel for workman has submitted that the workman was not a driver. It was none of his duties to park cars of the Officers in the parking area also it was not his duties to work as a driver of private vehicles of his Officers. Hence, even if the charge of carrying away any private vehicle of some Bank Officer to some other place is held proved, this is not an act of Moral Turpitude to warrant maximum punishment of dismissal of service. It is shocking and justice requires that it is interfere with.

On the other hand, Learned Counsel for management has submitted that there is no occasion of this Tribunal to interfere with the punishment Learned Counsel places reliance on following judgements: -

1. **Usha Breca Majdoor Sangh V/s Management of Usha Breca (2008) 5 SCC Page 554 para 28 to 32 & 39.**
2. **T.T. Chennai Metro Politian Water Supply and Sewage Board V/s Murli Babu (2014) 4 SCC Page 108 para 28 to 32.**
3. **Manoj H. Mishra V/s Union of India (2013) 6 SCC Page 313 para 34 & 35.**
4. **Ganesh Santaram Sirur V/s State Bank of India (2005) 1 SCC Page 13 para 34 to 36.**

The above principles of law have been re affirmed in these decisions.

In the case in hand, the established facts are that the alleged misconduct regarding moving away the car was outside of scope all the official duty of the workman because he was the guard and there was nothing on record nor in enquiry proceeding that he was qualified driver. Secondly, the finding regarding proof of charge is recorded only on his admission which he has retracted. The Disciplinary Authority And Appellate Authority have passed order of his dismissal from service ignoring the fact that at the very first outside, the workman retracted his show called admission. Needless to mention here that the enquiry proceeding started and completed within one day and enquiry report has been prepared on the next date.

Learned Counsel for workman has referred to decision of Hon'ble Supreme Court in the case of **Glacso Laboratory V/s Presiding Officer 1984 Supreme Court Page 505** in support of his agreement that since alleged misconduct was not related to official duty of the workman it should not be taken as a act of moral turpitute.

Keeping in view these facts and circumstances, I am of the considered view that the punishment of the dismissal of the workman from service is excessive and shockingly disproportionate to the charge. **Hence, holding the punishment of the dismissal of the workman for the charges disproportionate and excessive, issue No.4 is answered accordingly.**

Issue No. 4

Following observation of the Hon'ble Supreme Court in the case of Deepali Gundu Survase V/s Kranti Junior Adhyapak Mahavidyalaya case, are being reproduced as follows before entering into any discussion on this issue.

This extract is taken from *Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya*, (2013) 10 SCC 324 : (2014) 2 SCC (L&S) 184 : 2013 SCC OnLine SC 719 at page 356

38. The propositions which can be culled out from the aforementioned judgments are:

38.1. In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

38.2. The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors.

38.3. Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averment about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.

38.4. The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and/or certified standing orders, if any, but holds that the punishment was disproportionate to the misconduct found proved, then it will have the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then there will be ample justification for award of full back wages.

38.5. The cases in which the competent court or tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimising the employee or workman, then the court or tribunal concerned will be fully justified in directing payment of full back wages. In such cases, the superior courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc. merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The courts must always keep in view that in the cases of wrongful/illegal termination of service, the wrongdoer is the employer and the sufferer is the employee/workman and there is no justification to give a premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.

38.6. In a number of cases, the superior courts have interfered with the award of the primary adjudicatory authority on the premise that finalisation of litigation has taken long time ignoring that in majority of cases the parties

are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the termination of his service and finality given to the order of reinstatement. The courts should bear in mind that in most of these cases, the employer is in an advantageous position vis-à-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer i.e. the employee or workman, who can ill-afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in *Hindustan Tin Works (P) Ltd.* v. *Employees* [*Hindustan Tin Works (P) Ltd.* v. *Employees*, (1979) 2 SCC 80 : 1979 SCC (L&S) 53] .

38.7. The observation made in *J.K. Synthetics Ltd.* v. *K.P. Agrawal* [(2007) 2 SCC 433 : (2007) 1 SCC (L&S) 651] that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of three-Judge Benches [*Hindustan Tin Works (P) Ltd.* v. *Employees*, (1979) 2 SCC 80 : 1979 SCC (L&S) 53, [*Surendra Kumar Verma* v. *Central Govt. Industrial Tribunal-cum-Labour Court*, (1980) 4 SCC 443 : 1981 SCC(L&S) 16] referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of reinstatement of an employee/workman.

Since it has been held that punishment is excessive and disproportionate to the charges, the point arises as to what punishment will fulfil the end of justice in the case in hand keeping in view the fact that there is nothing on record to indicate that the workman has previously been punished during his service and other attending circumstances as mention above, reduction of the workman from one rank below the rank he was in at the time of his dismissal will meet the ends of justice hence the workman is held entitled to be reinstated with 20% of back wages with lowering of two increments with cumulative effect and is held entitled to all other in service and post retirral benefits deeming in to in continuous service of the management Bank. He is also held entitle to litigation first Rs 25000/- to be paid to him by management Bank within 30 days from the date of publication of award in official budget. Issue No. 4 is answered accordingly.

Award

Holding the action of the management regarding dismissal of the workman Mannuram Yadav unjustified in law, he is held entitled to be reinstated with 20% back wages. He is also held entitled to all other in service and post retirral benefits deeming him to be in continues service in management. His punishment is converted into lowering two increments from the scale he was holding at the time of his dismissal with cumulative effect. He is further held entitled to Rs 25000/- payable to him management within 30 days from the date of publication of award in official budget failing which interest at the rate of 6 % from the date of award till payment.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 28/02/2024

नई दिल्ली, 26 मार्च, 2024

का.आ. 601.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **भारतीय स्टेट बैंक** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **जबलपुर** के पंचाट (07/2019) प्रकाशित करती है।

[सं. एल-12011/23/2018-आईआर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 26th March, 2024

S.O. 601.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 07/2019*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen.

[No. L-12011/23/2018-IR(B-I)]

SALONI**,** Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/07/2019

Present: P.K. Srivastava

H.J.S.(Retd)

The General Secretary,
Dainik Vetan Bhogi Bank Karmchari Sangathan,
F-1, Tripti Vihar, Opp. Engg. College,
Ujjain (MP)-456010

Workman

Versus

The Chief General Manager,
State Bank of India, Hosangabad Road,
Bhopal (MP)-462004

Management

AWARD

(Passed on this 26th day of February,-2024.)

As per letter dated 18/12/2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-12011/23/2018(IR(B-I)) dt. 18/12/2018. The dispute under reference related to :-

> **"Whether the following allegations made by the union, Dainik Vetan Bhogi Bank Karmchari Sangathan, against the management of State Bank of India, Bhopal, in the matter of Shri Mukesh Gangwal, are amounts to unfair labour practice under I.D Act.?**

a) Not giving appointment letter and not giving termination letter.

b) Payment was not made as per pay scale/skill wage.

c) Minimum Wages not paid.

d) Muster Roll has not been maintained as per Section 25-D of ID Act.

e) Applicants have worked 240 days in a year.

f) After working for 06 days, the Wages for weekly off and National Holidays 26th January, 15th Aug were deducted.

If yes, what relief the workman is entitled to?"

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of allotment of time and service of notice, the workman never turned up and submitted his statement of claim. Management also did not file its written statement of claim/ defence. No evidence was ever produced by any of the parties in this Tribunal.

The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of workman not proved the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 26/02/2024

नई दिल्ली, 26 मार्च, 2024

का.आ. 602.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण पूर्व तट रेलवे के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, **जबलपुर** के पंचाट (67/2012) प्रकाशित करती है।

[सं. एल-41011/22/2012-आईआर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 26th March, 2024

S.O. 602.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 67/2012*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of South East Coast Railway and their workmen.

[No. L-41011/22/2012-IR(B-I)]

SALONI**,** Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/67/2012

Present: P.K. Srivastava

H.J.S.(Retd)

The President,

South East Central Railway Shramik Congress,

H.No. 145/02, KesharAwas, SmritiVan, Turning Point,

Rajkishore Nagar,

Bilaspur (CG)

Workman

Versus

The General Manager,

South East Coast Railway,

GM Complex,

Bilaspur (CG)

The Chief Personnel Officer,

South East Coast Railway,

GM Office building,

Railway Settlement,

Bilaspur (CG)

Management

AWARD

(Passed on this 01st day of March 2024)

As per letter dated 08/05/2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-41011/22/2012 (IR(B-I)) dt. 08/05/2012 The dispute under reference relates to:

" Whether the action of the management of the General Manager & CPO of Railway, Bilaspur (CG) in termination of services of Shri Kartikeshwar Pani, EX-TADK (Bunglow-Peon) wef 01-12-2010 is legal and justified? To what relief the workman is entitled?"

"Whether the action of the management of the General Manager & CPO of Railway, Bilaspur (CG) in not giving the wages to Shri Ramvilas Meena TADK (Bunglow-Peon) on the plea of not receiving the attendance from officer concern under which he had worked even after he had worked for the period from 23-10-2008 to 10-12-2009 and May, 2010 to August, 2010 is legal and justified? To what relief the workman is entitled?"

After registering case on the basis of reference received, notices were issued to the parties and were duly served on them. They have filed their respective statements of claim / defence.

According to the workman, he was initially working as the domestic servant of Shri A.K. Panda CMM-M&S/South East Central Railway Bilaspur. Subsequently, he was offered employment in Railway as Substitute Bungalow Peon vide order dated 11/05/2010 and was posted under Shri A.K. Panda. He submitted his joining report on the same day and till then, worked as Bungalow peon with utmost honesty and to the satisfaction of his superior. On 24/11/2010 Shri Panda wrote a letter to the Dy. Chief Personal Officer for terminating service of the workman and accordingly his services were terminated vide order dated 01/12/2010 with effect of 31/12/2010 on the ground of unsatisfactory service this order was further amended by way of corrigendum letter dated 08/12/2010 and words "this includes notice period of one month were added his termination letter". According to the workman, this termination of his services was illegal because it was done only with the view to accommodate one Malaya Kumar Jena in his place who was appointed as Bungalow peon after his termination thus his termination and is in violation of Section 25-F, 25-H, 25-G, and 25-M of the Industrial Disputes Act1947, hereinafter referred to by the word 'Act' as it amounts to retrenchment under the act. According to the workman he had completed 240 days in continuous employment of management.The workman has thus claimed his reinstatement with back wages and benefits holding his termination against law.

Case of the management in brief is mainly that the workman was engaged as the substitute Bungalow Peon on 12/05/2010 and was attached with Shri A.K. Panda. He was in the habit of misbehaving and disobeying the instructions/ orders of his superiors. Though he was orally cautioned, he did not change his behaviour, nor did he attend the orders of his superiors hence his services were terminated by the management vide order dated 01/12/2010, Under the provisions of the Indian Railway establishments Code and Indian Railway Establishment Manual and Establishment rule No. 194/2010 dated 27/10/2010. This is also the case of management that he himself sent a resignation letter dated 15/12/2010 to which the workman has deny and has stated that in fact Shri Panda has got singed some blank papers by him before his joining with an assurance that they may be used to further his application for employment and wrongly prepared his resignation letter.

In evidence, the workman filed letter of management accepting his application for appointment ex-W1 office order dated 11/05/2010 regarding his appointment and his joining report dated 11/05/2010 ex-W3 and W2, internal communication in management regarding his joining ex-W4 7 railway pay slips ex-W5 to W11 letter written by Shri A.K. Panda to Dy. CPO on 24/11/2010, termination order, corrigendum, letter of Assistant Personal Officer sent to the Headquarter regarding termination of his service and other documents filed and proved, to be referred as when required.

The workman also filed his affidavit as his examination in chief, he was cross examined by management.

The management filed almost same documents in original as referred to above and filed affidavit of its witness who was cross examined by workman side.

I have **heard argument** of Shri Aditya Ahiwashi Learned Counsel for workman and Shri R.K. Soni Learned Counsel for management. I have also gone through the record as well.

Perusal of the record in the light of the rival arguments reveals **following issues** for determination.

1. **Whether the termination of the workman is against the act.**
2. **In case the termination of the workman is found against the act, what relief he is entitled to.**

Issue No. 1

Not disputed is the fact which is also established from oral and documentary evidence that the workman was appointed by management as a Substitute Bungalow Peon to Shri A.K. Panda, his appointment letter dated 11/05/2010, relied by both the side, enumerates the terms and conditions subject to which his employment was made. The relevant terms are being reproduced as follows: -

1. The substitute Bungalow peon engaged with the approval of GM and attached to an officer should be screened on completion of three years of continuous/ aggregate and satisfactory services.

2. If he completes 1 year service but yet to complete 3 years service because of transfer of officer/ retirement of officer, etc. he should be absorbed against Group 'D' vacancies as substitute till he completes 3 years after which he becomes eligible for screening, in the event of incoming officer not willing to accept such Bungalow Peon.

3. If you do not complete 1 year service and there is no post of Bungalow Peon for adjustment, your service should be terminated.

4. If you have completed 3 years satisfactory service of Substitute Bungalow Peon, your service will be terminated without assigning any reason and without following DAR procedure, However, one month notice or one month pay in lieu of notice may be given in such occurrence. (Authority; item C of Estt. Rule No. 197/2005).

The termination order of the workman states that his services were terminated with effect from F.N. of 31/12/2010 due to unsatisfactory service in terms of CPO/SECR/BSP Establishment Rule No. 194/2010 dated 11/05/2010 by paying one month pay in lieu of one month period notice invoking clause C (1) of Establishment Circular No. 197/2005 and 9.1 of establishment circular 194/2010 these two provisions are one and the same

Rule 9.1 is being reproduced as follows: -

"**The service of a substitute Telephone & Dak Khalasi (TADK) who has not completed three years service can be terminated on administrative interest and for unsatisfactory service without assigning any reason and without following DAR procedure as per provisions of para 301 of Indian Railway Establishment Code,Vol I & para 1502 of Indian Railway Establishment Manual Vol I . However, one month's noticeor one month pay in lieuof notice may be given in such cases....."**

Learned Counsel for the workman has submitted that since the termination of the workman is on the ground of unsatisfactory service. It is stigmatic and hence it could not have been done without an enquiry since it was done without enquiry, hence termination order is bad in law and is liable to be held as such Learned Counsel has referred to judgements of Hon'ble the Apex Court in the case of Harzindar Singh V/s Punjab Warehousing Corporation 2010 Vol-3 SCC 192 and Hon'ble Andra Pradesh High Court Divisional Personal Officer Southern Railway V/s G. Jagdeshwar Reddy reported in 1976 (O) LIC 115.

In the case of Harzindar Singh (Supra) Para 15 of the judgement has been specifically referred the said paragraph is being reproduced as follows:-

As mentioned above, since it is established that the workman was appointed as the substitute Bungalow Peon and also established is the fact that there are specific rules and procedure in the Railway Establishment Code and the Establishment Circulars, as mentioned above, which indicate that these Bungalow Peons for being appointed as substitute can be appointed only with the personal approval of the General Manager and on completion of four months in continuous service, they have to be granted temporary status in terms of Para 1515 of Indian Railway Establishment Manual Vol-1.

Regarding screening and absorption, they have to be screened on completion of three years of continuous service and on being found their service satisfactory, they may be considered for regular absorption provision regarding their termination within 3 years as mentioned in rule 9.1 has been detailed earlier.

From the evidence on record, this fact is also established that the workman was terminated after one month notice as provided in rule 9.1. Also established is the fact that since he was disengaged after six months only, he cannot be held to have proved his engagement by management for 240 days in a year.

It comes out from the above discussion that since the workman was given one month notice in the way that his termination was to be effective after one month, his termination cannot be said to be in violation of Section 25-F of the 'Act'.

The other ground taken by Learned Counsel for the workman is that by engaging other worker Malaya Kumar Jena after disengagement of the applicant workman is in voilation of the section 25-H of the 'Act', this argument may be accepted in the light of the principle of law laid down in the case of Harzindar Singh (Supra).

This extract is taken from *Harjinder Singh v. Punjab State Warehousing Corpn.*, (2010) 3 SCC 192 : (2010) 1 SCC (L&S) 1146 : 2010 SCC OnLine SC 116 at page 202

"18. While rejecting the argument, this Court analysed Sections 25-F, 25-H, Rules 77 and 78 of the Industrial Disputes (Central) Rules, 1957, referred to Section 25-G and held: (*S. Satyam case* [(1996) 5 SCC 419 : 1996 SCC (L&S) 1273] , SCC pp. 426-27, paras 7-9)

"7. Section 25-H then provides for re-employment of retrenched workmen. It says that when the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched

workmen who offer themselves for re-employment shall have preference over other persons. Rules 77 and 78 of the Industrial Disputes (Central) Rules, 1957 prescribe the mode of re-employment. Rule 77 requires maintenance of seniority list of all workmen in a particular category from which retrenchment is contemplated, arranged according to seniority of their service in that category and publication of that list. Rule 78 prescribes the mode of re-employment of retrenched workmen. The requirement in Rule 78 is of notice in the manner prescribed to every one of all the retrenched workmen eligible to be considered for re-employment. *Shri Pai contends that Rules 77 and 78 are unworkable unless the application of Section 25-H is confined to the category of retrenched workmen to whom Section 25-F applies. We are unable to accept* this contention.

8. Rule 77 requires the employer to maintain a seniority list of workmen in that particular category from which retrenchment is contemplated, arranged according to the seniority of their service. The category of workmen to whom Section 25-F applies is distinct from those to whom it is inapplicable. There is no practical difficulty in maintenance of seniority list of workmen with reference to the particular category to which they belong. Rule 77, therefore, does not present any difficulty. Rule 78 speaks of retrenched workmen eligible to be considered for filling the vacancies and here also the distinction based on the category of workmen can be maintained because those falling in the category of Section 25-F are entitled to be placed higher than those who do not fall in that category. It is no doubt true that persons who have been retrenched after a longer period of service which places them higher in the seniority list are entitled to be considered for re-employment earlier than those placed lower because of a lesser period of service. In this manner a workman falling in the lower category because of not being covered by Section 25-F can claim consideration for re-employment only if an eligible workman above him in the seniority list is not available. Application of Section 25-H to the other retrenched workmen not covered by Section 25-F does not, in any manner, prejudice those covered by Section 25-F because the question of consideration of any retrenched workman not covered by Section 25-F would arise only, if and when, no retrenched workman covered by Section 25-F is available for re-employment. There is, thus, no reason to curtail the ordinary meaning of 'retrenched workmen' in Section 25-H because of Rules 77 and 78, even assuming the Rules framed under the Act could have that effect.

9. The plain language of Section 25-H speaks only of re-employment of 'retrenched workmen'. The ordinary meaning of the expression 'retrenched workmen' must relate to the wide meaning of 'retrenchment' given in Section 2(*oo*). Section 25-F also uses the word 'retrenchment' but qualifies it by use of the further words 'workman … who has been in continuous service for not less than one year'. Thus, Section 25-F does not restrict the meaning of retrenchment but qualifies the category of retrenched workmen covered therein by use of the further words 'workman … who has been in continuous service for not less than one year'. It is clear that Section 25-F applies to the retrenchment of a workman who has been in continuous service for not less than one year and not to any workman who has been in continuous service for less than one year; and it does not restrict or curtail the meaning of retrenchment merely because the provision therein is made only for the retrenchment of a workman who has been in continuous service for not less than one year. Chapter V-A deals with all retrenchments while Section 25-F is confined only to the mode of retrenchment of workmen in continuous service for not less than one year. *Section 25-G prescribes the principle for retrenchment and applies ordinarily the principle of 'last come first go' which is not confined only to workmen who have been in continuous service for not less than one year, covered by Section 25-F*."

(emphasis supplied)

20. The distinction between Sections 25-F and 25-G of the Act was recently reiterated in *Bhogpur Coop. Sugar Mills Ltd.* v. *Harmesh Kumar* [(2006) 13 SCC 28 : (2008) 2 SCC (L&S) 128] in the following words: (SCC p. 31, para 9)

"*9*. We are not oblivious of the distinction in regard to the legality of the order of termination in a case where Section 25-F of the Act applies on the one hand, and a situation where Section 25-G thereof applies on the other. Whereas in a case where Section 25-F of the Act applies the workman is bound to prove that he had been in continuous service of 240 days during twelve months preceding the order of termination; in a case where he invokes the provisions of Sections 25-G and 25-H thereof he may not have to establish the said fact. (See *Central Bank of India* v. *S. Satyam* [(1996) 5 SCC 419 : 1996 SCC (L&S) 1273] , *Samishta Dube* v. *City Board, Etawah* [(1999) 3 SCC 14 : 1999 SCC (L&S) 592] , *SBI* v. *Rakesh Kumar Tewari* [(2006) 1 SCC 530 : 2006 SCC (L&S) 143] and *Jaipur Development Authority* v. *Ramsahai* [(2006) 11 SCC 684 : (2007) 1 SCC (L&S) 518] .)"

In view of the above discussion, we hold that the learned Single Judge of the High Court committed serious jurisdictional error and unjustifiably interfered with the award of reinstatement passed by the Labour Court with compensation of Rs 87,582 by entertaining a wholly unfounded plea that the appellant was appointed in violation of Articles 14 and 16 of the Constitution and the Regulations."

It is established from record that one Mayank Kumar Jena was engaged by management in place of the applicant workman after his disengagement. The workman was disengaged within one year of his employment as permitted by Railway rules, as mentioned above in detail after his conduct was found unsatisfactory without any enquiry. Hence,

management cannot take the plea that his disengagement was stigmatic. Thus, the workman is held entitled to the benefit of section 25H of the Act.

Since the second workman never appeared is spite of service and never filed any claim deserves to be answered against him.

On the basis of above discussion and findings, reference answered as follows-

AWARD

The action of management of General Manager & C.P.O. of Railway in terminating services of Kartikeshwar Pani Ex –TADK (Bunglow Peon) w.e.f. 01/12/2010 is held legal. The workman is held entitled to be considered for re-employment to the said post on preferential basis in case this post is vacant.

Reference with respect to workman is answered against him.

Cost easy.

Let the copies of the award be sent to the Government of India, Ministry of Labour& Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 01/03/2024

नई दिल्ली, 27 मार्च, 2024

का.आ. 603.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उतर रेलवे के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **चंडीगढ़**-I के पंचाट (177/2018) प्रकाशित करती है।

[सं. एल-41011/08/2019-आईआर (बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th March, 2024

S.O. 603.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 177/2018*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court No.1 Chandigarh* as shown in the Annexure, in the industrial dispute between the management of Northen Railway and their workmen.

[No. L-41011/08/2019-IR(B-I)]

SALONI**,** Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Present: Sh. Kamal Kant, Presiding Officer-cum-Link Officer, Chandigarh.

ID No.177/2018

Registered On: 26.03.2019

Uttar Railway Mazdoor Union, H.No.191, Sector 45-A, Chandigarh-160047.

.....Workman

Versus

1. Chief Engineer (Bridges), Northern Railway Baroda Hose, New Delhi-110001.
2. The General Manager, Northern Railway, CBE, Baroda House, New Delhi-110001.
3. The Assistant Bridge Engineer, Northern Railway, Ambala Cantt (Haryana), 133001.

.....Managements

AWARD

Passed On: 07.03.2024

Central Government vide Notification No. L-41011/08/2019-IR(B-I) dated 07.03.2019, under clause (d) of Sub-Section (1) sub-section (2) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

"**Whether the demands of the Union Uttariya Railway Union in respect of all retiral benefits and arrears to Shri Joginder S/o Sh. Atma Ram be given at par with similar placed workman like Sh. Bishan Saroop of Northern Railway by taking into continuity of his services for the period from 24.09.1981 to 28.01.1987 (which has been taken as break in service by the Management) alongwith the past services is valid, legal & justified? If so, what relief the Workman is entitled to and from which date?"**

1. During the pendency of the proceedings before this Tribunal the case was fixed for appearance of Workman but none is responding on behalf of workman.

2. Perused the file and it is found that that three times notice has been served properly to the Workman but none is appearing on behalf of Workman since long i.e. from 31.05.2019 till now. Several opportunities have already been given to the workman to file the claim statement but of no use. Which denotes that the workman is not interested in adjudication of the matter on merits as such, this Tribunal is left with no choice except to pass a 'No Claim Award'. Accordingly, no claim award is passed in the present case for the non-prosecution of workman. File after completion be consigned in the record room.

3. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

KAMAL KANT, PO-cum-Link Officer

नई दिल्ली, 27 मार्च, 2024

का.आ. 604.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **चाइना कुनलुन कॉन्ट्रैक्टिंग इंजीनियरिंग कॉर्प, केंद्रपाड़ा, ओडिशा,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री प्रसन्नजीत पाणीग्राफी,** कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण** एवं श्रम न्यायालय, **भुवनेश्वर पंचाट(संदर्भ संख्या 50/2021) को जैसा कि अनुलग्नक में दिखाया गया है**, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21/03/2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-54-आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 27th March, 2024

S.O. 604.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 50/2021**) of the **Central Government Industrial Tribunal cum Labour–Bhubaneswar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **China Kunlun Contracting Engineering Corp, Kendrapara, Odisha, and Shri Prasannajit Panigraphi,** Worker which was received along with soft copy of the award by the Central Government on 21/03/2024.

[No. L-42025/07/2024-54-IR-(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-LabourCourt,

Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 50/2021

Date of Passing Order – 27th October, 2023

Between:

China Kunlun Contracting Engineering Corp,

At. Bagadia, Po. Jhimanni, P.S. Abhayachandpur,

Dist. Jagatsinghpur, Paradeep, Jagatsinghpur,

Odisha – 754 141.

… 1st Party-Management.

(And)

Sri PrasannajitPanigraphi,

Paradeep, Jagatsinghpur, Odisha-754 141.

… 2nd Party-Workman.

Appearances:

None. … For the 1st Party-Management.

None. … For the 2nd Party-Workman.

O R D E R

In the present case, a reference was received from the office of the Deputy Chief Labour Commissioner (Central), Bhubaneswar vide Order No. 8(54)/2020-B.III, dated 9th February, 2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication of a dispute, under the following schedule:-

> "Whether the action of the management of M/s. China Kunlun Contracting & Engineering Corporation by terminating the services of Sri Prasannajit Panigrahi without giving termination compensation/benefits is legal &/or justified? If not, what relief the workman is entitled to"?

2. In the reference order, the Deputy chief Labour Commissioner (Central), Bhubaneswar commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, no statement of claim is received from the 2nd Party-workman.

4. On receipt of the above reference, notice was sent to the 2nd Party-Workman on 20.12.2021 and on dated 03.04.2023 for appearance and for filing of statement of claim. Neither the postal article sent to the 2nd Party-Workman, referred to above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred to above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Workman. Despite service of the notices, the 2nd Party-Workman opted to abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Workman is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Workman has neither filed statement of claim nor has led any evidence so as to prove its cause against the Management, it is presumed that there is no claim of workman against the Management.

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this order be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 27 मार्च, 2024

का.आ. 605.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **चाइना कुनलुन कॉन्ट्रैक्टिंग इंजीनियरिंग कॉर्प, केंद्रपाड़ा, ओडिशा,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री सीताकांत बेहरा,** कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,**

भुवनेश्वर पंचाट (संदर्भ संख्या 51/2021) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21/03/2024 को प्राप्त हुआ था।।

[सं. एल-42025/07/2024-53-आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 27th March, 2024

S.O. 605.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 51/2021**) of the **Central Government Industrial Tribunal cum Labour–Bhubaneswar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **China Kunlun Contracting Engineering Corp, Kendrapara, Odisha, and Shri Sitakant Behera,** Worker which was received along with soft copy of the award by the Central Government on 21/03/2024.

[No. L-42025/07/2024-53-IR-(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-Labour

Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 51/2021

Date of Passing Order – 27th October, 2023

Between:

China Kunlun Contracting Engineering Corp,

At./Po. Tikhiri, P.S. Marshaghai, Dist. Kendrapara,

Odisha – 754 141.

… 1st Party-Management.

(And)

Sri SitakantBehera,

Marshaghai, Jagatsinghpur, Odisha-754 141.

… 2nd Party-Workman.

Appearances:

None. … For the 1st Party-Management.

None. … For the 2nd Party-Workman.

ORDER

In the present case, a reference was received from the office of the Deputy Chief Labour Commissioner (Central), Bhubaneswar vide Order No. 8(53)/2020-B.III,dated 9th February, 2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication of a dispute, under the following schedule:-

> "Whether the action of the management of M/s. China Kunlun Contracting & Engineering Corporation by terminating the services of Sri Sitakant Behera without giving termination compensation/benefits is legal &/or justified? If not, what relief the workman is entitled to"?

2. In the reference order, the Deputy chief Labour Commissioner (Central), Bhubaneswar commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, no statement of claim is received from the 2nd party-workman.

4. On receipt of the above reference, notice was sent to the 2nd Party-Workman on 20.12.2021 and on dated 03.04.2023 for appearance and for filing of statement of claim. Neither the postal article sent to the 2nd Party-Workman, referred to above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred to above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Workman. Despite service of the notices, the 2nd Party-Workman opted to abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Workman is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Workman has neither filed his statement of claim nor has led any evidence so as to prove its cause against the Management, it is presumed that there is no claim of workman against the Management.

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this order be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 27 मार्च, 2024

का.आ. 606.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **चाइना कुनलुन कॉन्ट्रैक्टिंग इंजीनियरिंग कॉर्प, केंद्रपाड़ा, ओडिशा,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री लक्ष्मी प्रसाद मिश्रा,** कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर पंचाट(संदर्भ संख्या 52/2021) को जैसा कि अनुलग्नक में दिखाया गया है**, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21/03/2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-55-आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 27th March, 2024

S.O. 606.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 52/2021**) of the **Central Government Industrial Tribunal cum Labour–Bhubaneswar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **China Kunlun Contracting Engineering Corp, Kendrapara, Odisha, and Shri Laxmi Prasad Mishra,**Worker which was received along with soft copy of the award by the Central Government on 21/03/2024.

[No. L-42025/07/2024-55-IR-(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,
Presiding Officer, C.G.I.T.-cum-LabourCourt,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 52/2021

Date of Passing Order – 27th October, 2023

Between:

China Kunlun Contracting Engineering Corp,
At. Hatadihi, Po. Chhayalsingh, P.S. Bonth,
Dist. Bhadrak, Odisha – 756 114.

… 1st Party-Management.

(And)

Sri Laxmi Prasad Mishra,
Bhadrak, Odisha-756 114.

… 2nd Party-Workman.

Appearances:

None.	…	For the 1st Party-Management.
None.	…	For the 2nd Party-Workman.

ORDER

In the present case, a reference was received from the office of the Deputy Chief Labour Commissioner (Central), Bhubaneswar vide Order No. 8(53)/2020-B.III, dated 9th February, 2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication of a dispute, under the following schedule:-

> "Whether the action of the management of M/s. China Kunlun Contracting & Engineering Corporation by terminating the services of Sri Laxmi Prasad Mishra without giving termination compensation/benefits is legal &/or justified? If not, what relief the workman is entitled to"?

2. In the reference order, the Deputy chief Labour Commissioner (Central), Bhubaneswar commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, no statement of claim is received from the 2nd party-workman.

4. On receipt of the above reference, notice was sent to the 2nd Party-Workman on 20.12.2021 and on dated 03.04.2023 for appearance and for filing of statement of claim. Neither the postal article sent to the 2nd Party-Workman, referred to above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred to above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Workman. Despite service of the notices, the 2nd Party-Workman opted to abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Workman is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Workman has neither filed his statement of claim nor has led any evidence so as to prove its cause against the Management, it is presumed that there is no claim of workman against the Management.

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this order be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 27 मार्च, 2024

का.आ. 607.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **चाइना कुनलुन कॉन्ट्रैक्टिंग इंजीनियरिंग कॉर्प, केंद्रपाड़ा, ओडिशा,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री राजकिशोर दास,** कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर पंचाट (संदर्भ संख्या 53/2021) को जैसा कि अनुलग्नक में दिखाया गया है**, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21/03/2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-56-आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 27th March, 2024

S.O. 607.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 53/2021**) of the **Central Government Industrial Tribunal cum Labour–Bhubaneswar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **China Kunlun Contracting Engineering Corp, Kendrapara, Odisha, and Shri Rajkishore Das,**Worker which was received along with soft copy of the award by the Central Government on 21/03/2024.

[No. L-42025/07/2024-56-IR-(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-Labour

Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 53/2021

Date of Passing Order – 30th November, 2023

Between:

China Kunlun Contracting Engineering Corp,

At. Mangarajpur, Po. Batira, P.S. Patakura,

Marshaghai, Dist. Kendrapara,

Odisha – 754 140.

… 1st Party-Management.

(And)

Sri Rajkishore Das,

Marshaghai, Jagatsinghpur, Odisha-754 140.

… 2nd Party-Workman.

Appearances:

None. … For the 1st Party-Management.

None. … For the 2nd Party-Workman.

ORDER

In the present case, a reference was received from the office of the Deputy Chief Labour Commissioner (Central), Bhubaneswar vide letter No. L.-8(52)/2020-B.III, dated 9th February, 2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, under the following schedule:-

> "Whether the action of the management of M/s. China Kunlun Contracting & Engineering Corporation by terminating the services of Sri Rajkishhore Das without giving terminationcompensation/benefits is legal &/or justified? If not, what relief the workman is entitled to?

2. In the reference order, the Deputy chief Labour Commissioner (Central), Bhubaneswar commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, the 2nd Party-Workman opted not to file the claim statement.

4. On receipt of the above reference, notice was sent to the 2nd Party- Workman on 20.12.2021 and on dated 03.04.2023 for appearance and for filing of statement of claim.Neither the postal article sent to the 2nd Party-Workman, referred to above, was received back nor was it observed by theTribunal that postal services remained unserved in the period, referred to above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Workman. Despite service of the notice, the 2nd Party-Workman opted to abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Workman is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Workman has neither filed statement of claim nor has led any evidence so as to prove its cause against the Management, hence there is no claim of workman against the Management.

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 27 मार्च, 2024

का.आ. 608.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **चाइना कुनलुन कॉन्ट्रैक्टिंग इंजीनियरिंग कॉर्प, केंद्रपाड़ा, ओडिशा,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री पुरषोत्तम बलियार सिंह, कामगार** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर पंचाट (संदर्भ संख्या 54/2021) को जैसा कि अनुलग्नक में दिखाया गया है**, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21/03/2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-57-आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 27th March, 2024

S.O. 608.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 54/2021**) of the **Central Government Industrial Tribunal cum Labour–Bhubaneswar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **China Kunlun Contracting Engineering Corp, Kendrapara, Odisha, and Shri Purusottam Baliar singh,** Worker which was received along with soft copy of the award by the Central Government on 21/03/2024.

[No. L-42025/07/2024-57-IR-(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-Labour

Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 54/2021

Date of Passing Order – 30th November, 2023

Between:

China Kunlun Contracting Engineering Corp,
At. Bindipur, Po. Adal, P.S. Gadishagoda, ,
Dist. Puri, Odisha – 752 017.

… 1st Party-Management.

(And)

Sri PurusottamBaliarsingh,

At. Bindipur, P.S. Adal, P.S. Gadishagoda,

Dist. Puri, Odisha-752 017.

… 2nd Party-Workman.

Appearances:

None. … For the 1st Party-Management.

None. … For the 2nd Party-Workman.

ORDER

In the present case, a reference was received from the office of the Deputy Chief Labour Commissioner (Central), Bhubaneswar vide letter No. L.-8(47)/2020-B.III, dated 9th February, 2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, under the following schedule:-

> "Whether the action of the management of M/s. China Kunlun Contracting & Engineering Corporation by terminating the services of Sri PurusottamBaliarsingh without giving termination compensation/ benefits is legal &/or justified? If not, what relief the workman is entitled to?

2. In the reference order, the Deputy chief Labour Commissioner (Central), Bhubaneswar commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, the 2nd Party-Workman opted not to file the claim statement.

4. On receipt of the above reference, notice was sent to the 2nd Party- Workman on 20.12.2021 and on dated 03.04.2023 for appearance and forfiling of statement of claim.Neither the postal article sent to the 2nd Party-Workman, referred to above, was received back nor was it observed by theTribunal that postal services remained unserved in the period, referred to above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Workman. Despite service of the notice, the 2nd Party-Workman opted to abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Workman is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Workman has neither filed statement of claim nor has led any evidence so as to prove its cause against the Management, hence there is no claim of workman against the Management.

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 27 मार्च, 2024

का.आ. 609.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **चाइना कुनलुन कॉन्ट्रैक्टिंग इंजीनियरिंग कॉर्प, केंद्रपाड़ा, ओडिशा,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री कुमार नायक, कामगार** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर पंचाट(संदर्भ संख्या 55/2021) को जैसा कि अनुलग्नक में दिखाया गया है**, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21/03/2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-58-आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 27th March, 2024

S.O. 609.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 55/2021**) of the **Central Government Industrial Tribunal cum Labour–Bhubaneswar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **China Kunlun Contracting Engineering Corp, Kendrapara, Odisha, and Shri Kumar Nayak,** Worker which was received along with soft copy of the award by the Central Government on 21/03/2024.

[No. L-42025/07/2024-58-IR-(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-Labour

Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 55/2021

Date of Passing Order – 30th November, 2023

Between:

China Kunlun Contracting Engineering Corp,
At./Po, Chandiapalli, P.S. Mahakalpada,
Dist. Kendrapara, Odisha – 754 212.

… 1st Party-Management.

(And)

Sri Kumar Nayak,
At. Mahakalpada,
Dist. Kendrapara, Odisha-752 212.

… 2nd Party-Workman.

Appearances:

None. … For the 1st Party-Management.

None. … For the 2nd Party-Workman.

ORDER

In the present case, a reference was received from the office of the Deputy Chief Labour Commissioner (Central), Bhubaneswar vide letter No. L.-8(46)/2020-B.III, dated 9th February, 2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, under the following schedule:-

> "Whether the action of the management of M/s. China Kunlun Contracting & Engineering Corporation by terminating the services of Sri Kumar Nayak without giving termination compensation/benefits is legal &/or justified? If not, what relief the workman is entitled to?

2. In the reference order, the Deputy chief Labour Commissioner (Central), Bhubaneswar commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, the 2nd Party-Workman opted not to file the claim statement.

4. On receipt of the above reference, notice was sent to the 2nd Party-Workman on 20.12.2021 and on dated 17.04.2023 for appearance and for filing of statement of claim. Neither the postal article sent to the 2nd Party-Workman, referred to above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred toabove. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Workman. Despite service of the notice, the 2nd Party-Workman opted to abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Workman is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Workman has neither filed statement of claim nor has led any evidence so as to prove its cause against the Management, hence there is no claim of workman against the Management.

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 27 मार्च, 2024

का.आ. 610.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **चाइना कुनलुन कॉन्ट्रैक्टिंग इंजीनियरिंग कॉर्प, केंद्रपाड़ा, ओडिशा,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री खगेश्वर नायक, कामगार** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर पंचाट (संदर्भ संख्या 56/2021) को जैसा कि अनुलग्नक में दिखाया गया है**, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21/03/2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-59-आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 27th March, 2024

S.O. 610.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 56/2021**) of the **Central Government Industrial Tribunal cum Labour–Bhubaneswar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **China Kunlun Contracting Engineering Corp, Kendrapara, Odisha, and Shri Khageswar Nayak,** Worker which was received along with soft copy of the award by the Central Government on 21/03/2024.

[No. L-42025/07/2024-59-IR-(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-Labour

Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 56/2021

Date of Passing Order – 30th November, 2023

Between:

China Kunlun Contracting Engineering Corp,

At. Purnaprasad, Po. Krushnaprasad, P.S. Banada,

Dist. Bhadrak – 756 171.

… 1st Party-Management.

(And)

Sri KhageswarNayak,

At. Bhadrak,

Dist. Bhadrak, Odisha-756 171.

… 2nd Party-Workman.

Appearances:

None. … For the 1st Party-Management.

None. … For the 2nd Party-Workman.

ORDER

In the present case, a reference was received from the office of the Deputy Chief Labour Commissioner (Central), Bhubaneswar vide letter No. L.-8(45)/2020-B.III, dated 9th February, 2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, under the following schedule:-

> "Whether the action of the management of M/s. China Kunlun Contracting & Engineering Corporation by terminating the services of Sri KhageswarNayak without giving termination compensation/benefits is legal &/or justified? If not, what relief the workman is entitled to?

2. In the reference order, the Deputy chief Labour Commissioner (Central), Bhubaneswar commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, the 2nd Party-Workman opted not to file the claim statement.

4. On receipt of the above reference, notice was sent to the 2nd Party-Workman on 20.12.2021 and on dated 17.04.2023 for appearance and for filing of statement of claim. Neither the postal article sent to the 2nd Party-

Workman, referred to above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred to above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Workman. Despite service of the notice, the 2nd Party-Workman opted to abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Workman is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Workman has neither filed statement of claim nor has led any evidence so as to prove its cause against the Management, hence there is no claim of workman against the Management.

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 27 मार्च, 2024

का.आ. 611.—औद्योगिक विवाद अधिनियम, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **चाइना कुनलुन कॉन्ट्रैक्टिंग इंजीनियरिंग कॉर्प, केंद्रपाड़ा, ओडिशा,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री बिशोका स्वैन, कामगार** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर पंचाट (संदर्भ संख्या 57/2021) को जैसा कि अनुलग्नक में दिखाया गया है**, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21/03/2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-60-आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 27th March, 2024

S.O. 611.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 57/2021**) of the **Central Government Industrial Tribunal cum Labour–Bhubaneswar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **China Kunlun Contracting Engineering Corp, Kendrapara, Odisha, and Shri Bishoka Swain,** Worker which was received along with soft copy of the award by the Central Government on 21/03/2024.

[No. L-42025/07/2024-60-IR-(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-Labour

Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 57/2021

Date of Passing Order – 30th November, 2023

Between:

The Project In-charge,

M/s. China Kunlun Contracting Engineering Corp,

At. Bijipur, Po. Sankheswar,

Dist. Jagatsinghpur, Odisha – 754 137.

… 1st Party-Management.

(And)

Sri Bishoka Swain,

At./Po. Jadupur, Ps. Marshaghai,

Dist. Kendrapara, Odisha-754 213.

… 2nd Party-Workman.

Appearances:

None. … For the 1st Party-Management.

None. … For the 2nd Party-Workman.

ORDER

In the present case, a reference was received from the office of the Deputy Chief Labour Commissioner (Central), Bhubaneswar vide letter No. L. No. 8(44)/2020-B.III and L.-8(44)/2020-B.IV/Adj./2021-B.I, dated 19th April, 2021 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, under the following schedule:-

> "Whether the action of the management of M/s. China Kunlun Contracting & Engineering Corporation by terminating the services of Shri Bishoka Swain w.e.f. 18.07.2020 without giving termination compensation/benefits is legal &/or justified? If not, what relief the workman is entitled to?

2. In the reference order, the Deputy chief Labour Commissioner (Central), Bhubaneswar commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, the 2nd Party-Workman opted not to file the claim statement.

4. On receipt of the above reference, notice was sent to the 2nd Party-Workman on 20.12.2021 and on dated 17.04.2023 for appearance and for filing of statement of claim. Neither the postal article sent to the 2nd Party-Workman, referred to above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred to above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Workman. Despite service of the notice, the 2nd Party-Workman opted to abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Workman is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Workman has neither filed statement of claim nor has led any evidence so as to prove its cause against the Management, hence there is no claim of workman against the Management.

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dictated & Corrected by me.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 27 मार्च, 2024

का.आ. 612.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **निदेशक, पूर्वी क्षेत्र जल प्रौद्योगिकी केंद्र (आईसीएआर), चन्द्रशेखरपुर, भुवनेश्वर,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री बीरा किशोर जेना, कामगार** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर पंचाट (संदर्भ संख्या 362/2001) को जैसा कि अनुलग्नक में दिखाया गया है**, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 21/03/2024 को प्राप्त हुआ था।

[सं. एल-42012/21/2000-आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 27th March, 2024

S.O. 612.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 362/2001**) of the **Central Government Industrial Tribunal cum Labour–Bhubaneswar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, Water Technology Centre for Eastern Region (ICAR), Chandrasekharpur, Bhubaneswar, and Shri Bira Kishore Jena,** Worker which was received along with soft copy of the award by the Central Government on 21/03/2024.

[No. L-42012/21/2000-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-Labour

Court, Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 362/2001

Date of Passing Award – 29th December, 2023

Between:

The Management of the Director,

Water Technology Centre for Eastern Region (ICAR),

At./Po. Chandrasekharpur, Bhubaneswar.

Dist. Khurda – 751 016.

… 1st Party-Management.

(And)

Sri Bira Kishore Jena,

S/o. Sri Dola Jena,

At .Sarada, Po. Purunahatasasan,

Dist. Cuttack.

… 2nd Party-Workman.

Appearances:

None. … For the 1st Party-Management.

None. … For the 2nd Party-Workman.

AWARD

In the present case, a reference was received from the appropriate Government vide letter No. L.-42012/21/2000/IR(DU) dated 31.05.2000 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, for adjudication of a dispute, under the following schedule:-

"Whether the action of the management of WTCER in terminating the services of Sh. Bira Kishore Jena, Ex-Field Worker is legal and justified? If not, to what relief the workman is entitled?"

2. The case of the 2nd party-workman in brief is as follows:-

That, the 2nd party-workman was employed in an unit of Water Technology for Eastern Reason under the Indian Council of Agricultural Research for growing different types of vegetation as Field Worker since March, 1989. The concerned workman had rendered uninterrupted service up-to December, 1990 and thereafter he was terminated from service by Field Supervisor from 1st January, 1994 without assigning any reason and without his fault. The concerned workman has discharged his duties for more than one-year continuous service but his service was terminated in violation of Section 25-F of the Industrial Disputes Act. The 1st Party-Management had followed neither

the provisions of law nor the principles of natural justice before terminating the services of the workman, so the termination of the concerned workman amounts to retrenchment which is illegal and unjustified, as a result of which the workman is entitled to be reinstated in service with full back wages. The concerned workman had approached the Management time and again, but his case was not considered. A prayer has been made to declare the termination of service of the concerned workman as illegal and unjustified with order of reinstatement with full back wages be passed.

3. On the other hand the case of the 1st Party-Management as per their written statement is as follows:-

That, the management of Water Technology Centre for Eastern Reason, Bhubaneswar, Odisha has been established since May, 1998 having its research farm in Deras, Mendhasal to carry out research on water management in agricultural field. The firm operation started from November, 1988 and the workman was engaged on muster rolls basis, whereas the contract system was introduced with effect from 16.12.1990. The concerned workman has not completed 240 days in a year. The termination of the concerned workman by the Management does not arise as the labour contractor can only engage or terminate the contract worker. So the Management is not responsible regarding any labour contract and their termination by the contractor. Moreover, the said project was undertaken by the Scientists either in the farm or in the laboratories which was purely adhoc and seasonal in nature and ends with the submission of filing of report. The Central Administrative Tribunal in the cases filed by some other contract workers has held that land preparation of nurseries and other works and other agricultural operation are seasonal in nature. There was no relationship of "employer and employee" between the Management and the workman, so the question of termination by the Management does not arise. The agricultural work in the farm was being carried out through the contract worker as per the instruction of the council with effect from 17.12.1990 and the said agricultural work of the farm were carried out through the labour contractor.

4. In this case the 2nd Part-workman has neither examined any witness nor has proved any documents in support of his case.

5. The 1st Party-Management has also not examined any witness, but has proved some documents which are marked as Ext.-A to Ext.-H as follows:-

Ext.-A – Copy of letter No. 24(6)/00-Con dated 19.09.1990 problems relating to casual workers in the ICAR Instructions.

Ext.-B – Copy of letter No. 46(53)/90-LS.V dated 04.12.1990, Issue of certificate of registration.

Ext.-C – Copy of certificate of registr5ation dated 05.12.1990.

Ext.-D – Copy of Statement – 'A'.

Ext.-E – Copy of original application No. 51 of 1995, CAT Cuttack Bench dated 23.04.1998.

Ext.-F – Copy of letter No. 24(15)/93 – Con. Dated 14.03.1995.

Ext.-G – Copy of order No. 1, dated 24.08.1995 in contempt petition (Civil)No. 23 of petition (Civil) No. 23 of 19959A. O. of O.A. No. 51/1995.

Ext.-H - Copy of contract Labour Agreement.

Ext.-J - Copy of Letter No. 8(69)/98-BBS/B dated nil – Report of conciliationto Government of India, Ministry of Labour by A.L.C. (C), BBSR.

FINDINGS

6. It is the claim of the 2nd party-workman that he was engaged in WTCER (Water Technology Centre for Eastern Reason)an unit of ICAR since March, 1989 as Field Worker, but his services were terminated with effect from 1st January, 1994, so he had discharged 240 days continuous work in one calendar year.

7. On the other hand it is the case of the Management that the farm operation started from November, 1988 and the workman was engaged on muster roll basis and subsequently on contract system which was introduced with effect from 16.12.1990 so the workman had not completed 240 days in a calendar year.

8. In support of his case the concerned workman had not produced any documents before the Tribunal. Moreover, he had not adduced any evidence before the Tribunal supporting his claim that he was working as a Field Worker since March, 1989 and his service was terminatedwith effect from January, 1994.

9. At this stage it is required to mention here that in this case the concerned workman was set exparte as he was not appearing before the Tribunal and subsequently an exparte award was passed by this Tribunal vide award dated 07.01.2002 in which it had been held that the action of the 1st Party-Management of WTCER in terminating the service of Sri Bira Kishore Jena Ex-Field Worker is not illegal and unjustified, so the workman was not entitled for any relief.

10. It also appears that subsequently a Restoration Misc. Case No. 1/2003 was filed by the concerned workman for setting aside the exparte award and for restoration of the case which was dismissed of by order dated 10.01.2006.

11. It further appears that the concerned workman has filed a writ petition vide W.P.(C) No. 4216/2006 before the Hon'ble High Court of Orissa challenging the order passed in Restoration Misc. Case No. 1/2003 and the Hon'ble High Court of Orissa has been pleased to pass the following order:-

……"For the aforementioned reasons, the order dated 10th January, 2006 of the Tribunal is hereby set aside and Misc. Case No. 1/2003 is treated as having been allowed. As a result,. The exparte Award dated 18th January, 2002 is hereby set aside and I.D. Case No. 362 of 2001 is restored to the file of the Tribunal for being proceeded with afresh from the **stage of final hearing**. In order words the representative of the workman and the management will appear and present their respective final arguments on a date to be fixed by the Tribunal.

12. Now in this case vide its order dated 15.02.2022 the Hon'ble High Court of Orissa has been pleased to direct the Tribunal to proceed with this case afresh from the stage of final hearing.

13. In view of the direction of the Hon'ble High Court of Orissa the case was fixed for final hearing of argument by both the parties. However, the learned lawyer of the workman filed petitions for adducing evidence in this case which was not allowed in the light of the order of the Hon'ble High Court. But the prayer of the learned lawyer of the workman for calling for documents exhibited in I.D. Case no. 341/2001 was allowed. However, the learned lawyer of the 2nd party-workman has not brought in record any documents in support of his claim from the record in I.D. Case no. 341/2001.

14. Now in this case there is only pleadings of the concerned workman that he was working in the WTCER an Unit of ICAR since March, 1989 and he was discharged from service with effect from 1.1.1994 after completion of 240 days of continuous work in one calendar year but he has not produced any documents to support his claim.

15. At this stage it is required to mention here that the onus lies on the concerned workman to produce the relevant documents and evidence before this Tribunal in support of his claim but he has failed to produce those documents before this Tribunal and in absence of any documents in support of the engagement of the workman it is not proper to hold that the concerned workman was engaged in the management of WTCER an Unit of ICAR in March, 1989 and he was discharged from service with effect from 1.1.1994.

16. In view of the above discussion, the Tribunal finds and holds that there is no merit in this case and accordingly the action of the Management of WTCER in terminating the services of Sri Bira Kishore Jena, Ex-Field Worker is legal and justified. Hence he is not entitled to any relief as prayed for.

17. This is the award of the Tribunal.

18. Office is directed to consign the record.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 27 मार्च, 2024

का.आ. 613.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स जम्मू और कश्मीर बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, I - दिल्ली के पंचाट (140/2022) प्रकाशित करती है।

[सं. एल-12011/12/2022-आईआर-(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th March, 2024

S.O. 613.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.140/2022) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court -I Delhi* as shown in the Annexure, in the industrial dispute between the management of M/s Jammu and Kashmir Bank and their workmen.

[No. L-12011/12/2022-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVENRMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT DELHI-1, ROOM NO. 207, ROUSE AVENUE COURT COMPLEX, NEW DELHI

I.D. NO. 140/2022

Sh. Laxman Dass S/o Sh. Matai,
Through Rashtirya Rajdhani Shramik Sangh,
1576/13 Govind Puri, Kalkaji,
New Delhi - 110019

…..……Workman

Versus

1. M/s Jammu and Kashmir Bank,
   4 Bhogal Road, Jangpura,
   New Delhi – 110014
2. M/s Trig Detective Services Private Limited
   A-383, Road No. 3, Mahipalpur Extension,
   New Delhi - 110037

……..Managements

AWARD

1. In the present case, a reference was received from the appropriate Government vide letter No. L-12011/12/2022 (IR(B-I) of dated 04.04.2022 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

> "Whether the demand raised by the Rashtriya Rajdhani Shramik Sangh in respect of workman Shri Laxman Dass, Security Guard against the Management of M/s Trig Detective Services Pvt. Ltd. Serving in the establishment of Jammu and Kashmir Bank(J&K) over the issue of illegal termination of service of the workman on 13.06.2019 thereby violating the principles of Natural Justice and section 25-F of Industrial Disputes Act, 1947 is fair, legal & justified? If yes, what relief the workman is entitled to and what further directions are necessary in this regard?"

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the managements, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNAVAR SHRIVASTAVA (Retd.), Presiding Officer

नई दिल्ली, 27 मार्च, 2024

का.आ. 614.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एचडीएफसी बैंक लिमिटेड के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट **औघोगिक** विवाद में केन्द्रीय सरकार **औद्योगिक** अधिकरण/श्रम न्यायालय, **I-दिल्ली** के पंचाट (94/2012) **प्रकाशित** करती है।

[सं. एल-12011/28/2012-आईआर-(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th March, 2024

S.O. 614.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 94/2012*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court -I Delhi* as shown in the Annexure, in the industrial dispute between the management of HDFC Bank Limited and their workmen.

[No. L-12011/28/2012-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL–CUM- LABOUR COURT-I, NEW DELHI.

INDUSTRIAL DISPUTE CASE NO. 94/2012

Date of Passing Award- 18th September,2023

Between:

Shri Ajay Kumar,

s/o Shri Kali Charan,

C/o The Secretary,

General Mazdoor Lal Jhanda Union,

1-441, Karampura,

New Delhi.

Workman

Versus

1.The Assistant General Manager,

HDFC Bank Limited, Site No. 2 OCF Pockit,

Sector-C , Vasant Kunj,

New Delhi-110070.

2.Manpower Associated Services & Solution Pvt. Ltd.

E1/A, lind floor,

Opp., Income Tax Office,

Jhandewalan Extension,

New Delhi.

Managements.

Appearances:-

None for the Claimant

Sh. Raj Rishi, A/R for the managements.

AWARD

In the present case, a reference was received from the appropriate Government vide file no. L-12011/28/2012 (IR(B-I)) New Delhi, dated 13.08.2012 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

"Whether Shri Ajay Kumar S/o Shri Kali Charan working as Field Boy with the management of HDFC is a permanent workman of this management and the management of Mass Manpower Associated Services and Solutions Pvt. Ltd. is sham and camouflage to deprive the workman his legal rights? To what relief the workman is entitled ?"

This is a reference received from the Appropriate Government to adjudicate.

The claimant filed a claim statement wherein he prayed order of regularization in service as a permanent workman of the management no. 1.

Being noticed the managements appeared and filed written statement denying all the allegation levelled by the workman and also pleaded for dismissal of the claim.

On the rival of pleading of the parties the following issue were framed for adjudication:

1.Whether the claimant is absenting himself from his duties with management no. 2 since 06.09.2011?

2.Whether the services of the claimant were dispensed with by management no. 2 on 29.07.2011?

3. As in terms of reference?

When called upon to adduce evidence the claimant . The claimant testified as WW1 and filed several documents marked in a series. When the matter was pending for cross examination of the claimant , a proposal was advanced by the parties for amicable settlement. The matter was adjourned to 18.04.2017 for settlement during the Lok Adalat.

On 18.04.2017 Ld.A/R for the managements appeared and stated that on discussion, the management is not agreeing the conciliation of the matter on the terms and conditions proposed by the claimant. The statement is taken on record. Since, the conciliation failed the matter is remitted back to the court concerned for disposal according to law and further proceeding.

Since, the claimant is not attending the court since long. Thus, it is apparent that the workman is no more interested in pursuing his case on merits. Under such circumstances, this Tribunal is left with no other alternative but to pass no dispute award. As such, the matter was reserved for passing no dispute award.

The stand taken in the claim petition is not proved and substantiated for want of oral and documentary evidence adduced by the claimant. Hence this no dispute award is passed. Hence ordered.

ORDER

The claim be and the same is dismissed as the claimant has no dispute against the management and this no dispute award is accordingly passed.

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID Act 1947.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.) , Presiding Officer

नई दिल्ली, 27 मार्च, 2024

का.आ. 615.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एचडीएफसी बैंक लिमिटेड के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, I - दिल्ली के पंचाट (41/2019) प्रकाशित करती है।

[सं. एल-12011/51/2018-आईआर-(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th March, 2024

S.O. 615.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 41/2019*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court -I Delhi* as shown in the Annexure, in the industrial dispute between the management of HDFC Bank Limited and their workmen.

[No. L-12011/51/2018-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT-I, NEW DELHI

ID.NO. 41/2019

The Dy. General Secretary,

State Bank of India Staff Association,

C/o Staff Bank of India, Adm. Office,1,

New Cantt, Road,

Dehradun-248001.

…..Claimant / workman

Versus

1. The Asstt. General Manager,
   State Bank of India, Main Branch, Court Road,
   Saharanpur, (U.P) -247001.

2. The Deputy General Manager(B&O) ,
   State Bank of India, Administrative Office,
   111/112, Tower-A , The Corrumthum,
   A-41, Sector-62,
   Noida (U.P)-201301.

……Managements

AWARD

In the present case, a reference was received from the appropriate Government vide file no. L-12011/51/2018 (IR(B-I)) New Delhi, dated 02.01.2019 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

"Whether the claim of the Union, State Bank of India Staff Association, that the transfer order dated 20.11.2017 issued by the management of SBI, Saharanpur, in violation of clause 535 of the Shatri Award which exempts the Branch Secretaries from the applicability of the five years transfer policy of the bank is legal and justified? If yes, what relief the workmen are entitled to?"

This is a reference received from the Appropriate Government to adjudicate.

Both the parties being put to notice. The claimant filed a claim statement. When the matter was pending for appearance and written statement by the management, a proposal was advanced by the management for amicable settlement and the matter was adjourned for further order. On 30.03.2022, the claimant has filed an application for withdrawal of the present case wherein he gave a statement to the effect that he has settled the dispute with the management and does not have any grievance against the management for which he wants to withdraw the proceeding.

Hence, this no dispute award is passed. Hence ordered .

ORDER

The claim be and the same is dismissed as the claimant has no dispute against the management and this no dispute award is accordingly passed.

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID Act 1947.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

नई दिल्ली, 27 मार्च, 2024

का.आ. 616.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एचडीएफसी बैंक लिमिटेड के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, I - दिल्ली के पंचाट (44/2021) प्रकाशित करती है।

[सं. एल-12011/26/2020-आईआर-(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th March, 2024

S.O. 616.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 44/2021*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court -I Delhi* as shown in the Annexure, in the industrial dispute between the management of HDFC Bank Limited and their workmen.

[No. L-12011/26/2020-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVENRMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT DELHI-1, ROOM NO. 207, ROUSE AVENUE COURT COMPLEX, NEW DELHI

I.D. NO. 44/2021

Sh. Akash Malik S/o Sh. Iqbal Singh,
Through All India General Mazdoor Trade Union(regd.),
170 Bal Mukund Khand Giri Nagar, Kalka Ji,
New Delhi-110019

…..…….Workman

Versus

1. HDFC Bank Ltd., No. 2212, Gali No. 64-65,
J Block, Naiwala Gurudwara, Karol Bagh,
New Delhi-110005

2. M/s. Checkmate Services Pvt. Ltd.,
Plot No. 138, Udyog Nagar, Gurugram,
Haryana-122015.
3. M/s. Checkmate Services Pvt. Ltd.,
58-61, Vashist Park, Sagarpur,
New Delhi-110046.

……..Managements

AWARD

1. In the present case, a reference was received from the appropriate Government vide letter No. L-12011/26/2020 (IR(B-I) of dated 22.09.2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

"Whether the workman Sh. Akash S/o Sh. Iqbal Singh is entitled to overtime, bonus, leaves, remuneration for weekly offs and holidays, arrears of amount deducted from his wages yearly form uniform and traveling allowance, w.e.f. 27.10.2016? and if yes to what relief is the workman entitled and what direction are necessary in this regard?"

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the managements, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNAVAR SHRIVASTAVA (Retd.), Presiding Officer

नई दिल्ली, 27 मार्च, 2024

का.आ. 617.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स जम्मू और कश्मीर बैंक के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, I - दिल्ली के पंचाट (139/2022) प्रकाशित करती है।

[सं. एल-12011/13/2022-आईआर-(बी-I)]

सलोनी, उप निदेशक

New Delhi, the 27th March, 2024

S.O. 617.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 139/2022*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court -I Delhi* as shown in the Annexure, in the industrial dispute between the management of M/s Jammu and Kashmir Bank and their workmen.

[No. L-12011/13/2022-IR(B-I)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT-I, NEW DELHI

ID.NO. 139/2022

Sh. Ram Lakhan S/o Sh. Subedar,
through Rashtirya Rajdhani Shramik Sangh,
1576/13 Govind Puri, Kalkaji, New Delhi-110019

…..Claimant / workman

Versus

1.M/s Jammu and Kashmir Bank,
4 Bhogal Road, Jangpura, New Delhi-110014.

2. M/s Trig Detective Services Private Limited A-383,
Road No. 3, Mahipalpur Extension,
New Delhi-110037.

……Managements

AWARD

In the present case, a reference was received from the appropriate Government vide file no. L-12011/13/2022 (IR(B-I)) New Delhi, dated 04.04.2022 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

"Whether the demand raised by the Rashtriya Rajdhani Shramik Sangh in respect of workman Shri Ram Lakhan, Security Guard against the Management of M/s Trig Detective Services Pvt. Ltd. serving in the establishment of Jammu and Kashmir Bank(J&K) over the issue of illegal termination of service of the workman on 12.06.2019 thereby violating the principles of Natural Justice and section 25-F of Industrial Disputes Act, 1947 is fair, legal & justified? If yes, what relief the workman is entitled to and what further directions are necessary in this regard?"

In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, claimant opted not to file the claim statement.

On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

Since the workman has neither put his appearance nor has he led any evidence so as to prove his cause against the managements, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

नई दिल्ली, 27 मार्च, 2024

का.आ. 618.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एचडीएफसी बैंक लिमिटेड के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, I - दिल्ली के पंचाट (121/2012) प्रकाशित करती है।

[सं. एल-12025/01/2024-आईआर-(बी-I)-140]

सलोनी, उप निदेशक

New Delhi, the 27th March, 2024

S.O. 618.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 121/2012*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court -I Delhi* as shown in the Annexure, in the industrial dispute between the management of HDFC Bank Limited and their workmen.

[No. L-12025/01/2024-IR(B-I)-140]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL–CUM-LABOUR COURT-I, NEW DELHI

INDUSTRIAL DISPUTE CASE NO. 121/2012

Date of Passing Award- 18th September,2023

Between:

Shri Ajay Kumar,
s/o Shri Kali Charan,
C/o The Secretary,
General Mazdoor Lal Jhanda Union,
1-441, Karampura,
New Delhi.

Workman

Versus

1.The Assistant General Manager,
HDFC Bank Limited, Site No. 2 OCF Pockit,
Sector-C, Vasant Kunj,
New Delhi-110070.

2.Manpower Associated Services & Solution Pvt. Ltd.
E1/A, lind floor,
Opp., Income Tax Office,
Jhandewalan Extension,
New Delhi.

Managements.

Appearances:-

None for the Claimant

Sh. Raj Rishi, A/R for the managements.

AWARD

This is an application filed u/s 33 A of the ID. Act by the claimant who was the employee of the management. The management was noticed for the purpose of hearing of the application.

Being noticed the managements appeared and filed written statement denying the entire allegation levelled by the workman and also pleaded for dismissal of the claim.

On the rival of pleading of the parties the following issue were framed for adjudication:

1.Whether the claimant is workman concerned in Industrial Dispute, which was pending before the Conciliation Officer on 05.09.2011?

2. Whether MASS Manpower Associated Service and Solution Pvt. Ltd. violated provisions of Section 33 A of the Industrial Disputes Act, 1947?

3. Whether claimant is entitled for relief of reinstatement in service?

When called upon to adduce evidence the claimant, a proposal was advanced by the parties for amicable settlement. The matter was adjourned to 18.04.2017 for settlement during the Lok Adalat.

On 18.04.2017 Ld.A/R for the managements appeared and stated that on discussion, the management is not agreeing the conciliation of the matter on the terms and conditions proposed by the claimant. The statement is taken on record. Since, the conciliation failed the matter is remitted back to the court concerned for disposal according to law and further proceeding.

Since, the claimant is not attending the court since long. Thus, it is apparent that the workman is no more interested in pursuing his case on merits. Under such circumstances, this Tribunal is left with no other alternative but to pass no dispute award. As such, the matter was reserved for passing no dispute award.

The stand taken in the complaint petition is not proved and substantiated for want of oral and documentary evidence adduced by the claimant. Hence this no dispute award is passed. Hence ordered.

ORDER

The complaint petition be and the same is dismissed as without merit and this no dispute award is accordingly passed.

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID Act 1947.

Justice VIKAS KUNVAR SRIVASTAVA (Retd.), Presiding Officer

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